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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

CASE: 0:14-CV-01467-DWF-JSM

Walter Louis Franklin, II,
Trustee for the Estate of
Terrance Terrell Franklin,

Plaintiff,

vs.

Lucas Peterson, individually
and in his official capacity;
Michael Meath, individually
and in his official capacity;
Janee Harteau, Chief of Police
for the Minneapolis Police Department,
individually and in her official
capacity; and the City of Minneapolis,

Defendants.

DEPOSITION OF
MICHAEL MEATH
August 27, 2015
9:30 a.m.

VERBATIM REPORTING (763)-493-4535

1 DEPOSITION OF MICHAEL MEATH, taken by and
 2 on behalf of Plaintiff, at 350 South 5th Street, Room
 210, Minneapolis, Minnesota, 55415 on August 27,
 2015, commencing at 9:30 a.m., before Kristin Hoium,
 3 Notary Public, State of Minnesota, County of
 Hennepin.

4 * * * * *

5 APPEARANCES

6 PADDEN LAW FIRM, PLLC
 7 BY: Michael B. Padden, Esq.
 8687 Eagle Point Blvd.
 8 Lake Elmo, Minnesota 55042
 Appeared for Plaintiff

9 CITY OF MINNEAPOLIS OFFICE OF CITY ATTORNEY
 10 BY: Brian S. Carter, Esq.
 Sara J. Lathrop, Esq.
 11 350 South 5th Street
 Room 210
 12 Minneapolis, Minnesota 55415
 Appeared for the City of Minneapolis

13 THE DERATANY FIRM
 14 BY: Megan S. O'Connor, Esq.
 221 North LaSalle Street
 15 Suite 2200
 Chicago, Illinois 60601
 16 Appeared for Plaintiff

17 ALSO PRESENT: R. Steven Rogers

18 I N D E X

19	<u>EXAMINATION BY:</u>	<u>PAGE:</u>
	Mr. Padden	3
20	Mr. Carter	125
21	<u>EXHIBITS:</u>	<u>PAGE:</u>
	No. 1	65
22	2	108

23
 24 *** READING AND SIGNING NOT WAIVED ***
 *** ORIGINAL TRANSCRIPT IN POSSESSION
 25 OF ATTORNEY MICHAEL PADDEN ***

09:32:28
 09:32:28

VERBATIM REPORTING (763)-493-4535

<p style="text-align: right;">3</p> <p>1 MICHAEL MEATH,</p> <p>2 a witness in the above-entitled action, having</p> <p>3 been duly sworn, deposes and says as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. PADDEN:</p> <p>6 Q. Could you state your name please for the record,</p> <p>7 sir?</p> <p>8 A. Michael Meath. M I C H A E L. Meath is M E A T</p> <p>9 H.</p> <p>10 Q. Is it okay if I refer to you throughout the</p> <p>11 deposition, sir, as Officer Meath?</p> <p>12 A. Sure.</p> <p>13 Q. Sir, this deposition is being taken in a lawsuit</p> <p>14 where the plaintiff has the name Franklin. Have</p> <p>15 you had a chance to see the complaint for this</p> <p>16 case, sir?</p> <p>17 A. I have.</p> <p>18 Q. Have you read it?</p> <p>19 A. Yes.</p> <p>20 Q. From beginning to end?</p> <p>21 A. I believe so.</p> <p>22 Q. Did you review any documents in preparation for</p> <p>23 this deposition, sir?</p> <p>24 A. I did.</p> <p>25 Q. What did you review, sir?</p> <p style="text-align: center;">VERBATIM REPORTING (763)-493-4535</p>	<p style="text-align: right;">5</p> <p>1 verbally as opposed to saying un-huh or nodding</p> <p>2 your head or some other response that would be</p> <p>3 nonverbal in nature. Is that okay, sir?</p> <p>4 A. Yup.</p> <p>5 Q. Secondly, let me get the question out and I will</p> <p>6 try to provide the same courtesy to you when you</p> <p>7 answer. We just can't speak together. You are</p> <p>8 doing a great job so far and the other officer</p> <p>9 witnesses have done a real good job. Just let me</p> <p>10 get the question out completely before you answer</p> <p>11 and we will get a better record that way. Okay?</p> <p>12 A. Okay.</p> <p>13 Q. Lastly, if I ask you a question you don't</p> <p>14 understand, tell me that and I will try to</p> <p>15 rephrase it in a way you understand it. Because</p> <p>16 if you answer the question I'm going to</p> <p>17 reasonably assume that you understood the</p> <p>18 question. Is that okay, sir?</p> <p>19 A. Yes.</p> <p>20 Q. Sir, where were you born and raised?</p> <p>21 A. I was born in St. Paul, Minnesota and I was</p> <p>22 raised in Minneapolis.</p> <p>23 Q. Where did you go to high school?</p> <p>24 A. South High School.</p> <p>25 Q. Any education after high school, sir?</p> <p style="text-align: center;">VERBATIM REPORTING (763)-493-4535</p>
<p style="text-align: right;">4</p> <p>1 A. Police report and a few schematics.</p> <p>2 Q. What are schematics?</p> <p>3 A. Computer generated drawings.</p> <p>4 Q. Drawings of what?</p> <p>5 A. Of the layout of a basement.</p> <p>6 Q. Would that be the basement of the home where</p> <p>7 Franklin was killed?</p> <p>8 A. Yes.</p> <p>9 Q. Sir, you have very good attorneys representing</p> <p>10 you. Have you ever given a deposition before?</p> <p>11 A. I have.</p> <p>12 Q. How many times?</p> <p>13 A. One for sure, maybe two.</p> <p>14 Q. Were they in the context of civil rights</p> <p>15 lawsuits?</p> <p>16 A. I'm not sure on that.</p> <p>17 Q. How long ago?</p> <p>18 A. A few years ago.</p> <p>19 Q. Regarding the rules, they are real basic. I'm</p> <p>20 sure you have had a chance to discuss this with</p> <p>21 your attorneys, but there's three things I like</p> <p>22 to let witnesses know about.</p> <p>23 The first thing, as I'm sure you know,</p> <p>24 sir, everything we say today is being taken down</p> <p>25 by the court reporter. So you need to respond</p> <p style="text-align: center;">VERBATIM REPORTING (763)-493-4535</p>	<p style="text-align: right;">6</p> <p>1 A. Yup. I went to New Hampshire Technical College</p> <p>2 in the state of New Hampshire.</p> <p>3 Q. How did you end up in New Hampshire?</p> <p>4 A. I went out there for school.</p> <p>5 Q. How long was that program, sir?</p> <p>6 A. Two years.</p> <p>7 Q. Was it your intention to become a police officer</p> <p>8 at that time?</p> <p>9 A. It was.</p> <p>10 Q. And then it is my understanding you worked as a</p> <p>11 licensed peace officer in the state of New</p> <p>12 Hampshire before you came back to Minnesota?</p> <p>13 A. Yes.</p> <p>14 Q. How many years were you there, sir?</p> <p>15 A. Just under three.</p> <p>16 Q. Were you ever investigated as part of an internal</p> <p>17 affairs investigation when you were in New</p> <p>18 Hampshire?</p> <p>19 A. I don't believe so, no.</p> <p>20 Q. Was a lawsuit ever commenced against you or the</p> <p>21 department you worked for regarding a claim of</p> <p>22 excessive force or civil rights violations?</p> <p>23 A. I don't believe so.</p> <p>24 Q. Good work record in New Hampshire?</p> <p>25 A. Yes.</p> <p style="text-align: center;">VERBATIM REPORTING (763)-493-4535</p>

7

1 Q. What's your ethnicity, sir?
2 A. American.
3 Q. My blood is I'm German, French, English, Irish
4 and Lebanese. Do you have any idea what your
5 background is?
6 A. Irish and Mexican.
7 Q. When did you first begin working for the
8 Minneapolis Police Department, sir?
9 A. In August of 2005.
10 Q. What was your position at that time, sir?
11 A. Patrol officer.
12 Q. Are you still a patrol officer?
13 A. Yes.
14 Q. Have you sought an increase in rank during your
15 tenure with the MPD?
16 A. No.
17 Q. Have you ever been up for promotion?
18 A. No.
19 Q. When did you first begin working in the SWAT
20 unit, sir?
21 A. I believe it was in 2010.
22 Q. Are you still a member of the SWAT team, sir?
23 A. Yes.
24 Q. Sir, there has been some discussion in the other
25 depositions of this concept of whether a member

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1 of the team can be part-time or full-time.
2 When you began working on the SWAT
3 team, sir, during that time frame from then until
4 now have you ever been considered a full-time
5 member of the SWAT team?
6 A. No.
7 Q. When you became a member of the SWAT team, sir,
8 in 2010 were there members that were considered
9 to be, quote, unquote, full-time?
10 A. I guess it would be the definition of full-time.
11 We have never had a full-time SWAT team.
12 Q. I appreciate that. But the reason I ask is
13 because I had read some documents. There was an
14 investigation of two SWAT officers that were
15 involved in an incident in Green Bay, Wisconsin
16 in 2013 and their names were Thole and Powell.
17 You are familiar with them, correct?
18 A. Correct.
19 Q. And they were terminated. You know that, right?
20 A. Yes.
21 Q. And as part of the investigation documents that
22 were generated by I think city employees, I
23 believe they were referred to as full-time SWAT
24 members. Does that make any sense to you?
25 A. I guess I need to understand your definition of

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1 full-time SWAT member. I think mine is different
2 than yours.
3 Q. What is yours, sir?
4 A. Mine would be you are in a full-time tactical
5 situation. You are not doing any patrol work,
6 police work or anything else. And the city has
7 never had that.
8 Q. To your knowledge?
9 A. To my knowledge.
10 Q. When you use the term tactical, does that mean --
11 does that include SWAT events, for lack of a
12 better description?
13 A. It depends on what SWAT events you mean.
14 Q. When you say tactical what do you mean, sir?
15 A. I would mean hostage situations, serving high
16 risk warrants, operation 100s with barricaded
17 suspects.
18 Q. Would that also include the attempted
19 apprehension of suspects?
20 A. It depends on if it meets one of those three
21 criteria I just said.
22 Q. Let me ask it this way.
23 Was the attempted apprehension of
24 Terrance Franklin on May 10th, 2013, was that a
25 tactical operation?

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1 A. It was a search of a suspect.
2 Q. So that wouldn't be tactical.
3 A. No.
4 Q. But SWAT was involved obviously, correct?
5 A. Yes.
6 Q. So it wouldn't be abnormal for SWAT to be
7 deployed in a situation concerning someone who
8 was attempting to evade arrest.
9 A. I guess it would be -- again, when you say
10 deployed what do you mean by that?
11 Q. Well, you guys are put into action. Isn't that
12 the verb you use?
13 A. It is not put into action. It is a police
14 officer responding to a call. It is when -- the
15 way I'm taking what you are saying is somebody
16 high up is calling in for SWAT.
17 Q. So the word deployed has never been used in terms
18 of the SWAT unit?
19 A. It has been used but not in that context.
20 Q. I guess what I'm asking is was the attempt to
21 apprehend this guy Franklin that day, was that an
22 abnormal event for the SWAT team or was that the
23 type of stuff you guys do?
24 A. For the 1280 it was abnormal.
25 Q. What do you mean by 1280, sir?

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1 A. That's what I was assigned to when the incident
 2 occurred.
 3 Q. 1280, does that mean SWAT?
 4 A. It means the warrant team for the month.
 5 Q. So 1280, does that specifically relate to the
 6 serving of warrants, sir?
 7 A. Yes.
 8 Q. Sir, have you ever been in the military?
 9 A. No.
 10 Q. Have you ever been trained in the concept of
 11 militarization at any time in your life?
 12 A. No.
 13 Q. Do you know what militarization is?
 14 A. No.
 15 Q. Have you ever heard of that term?
 16 A. Just when you say it and in the media.
 17 Q. So you have heard it from the media.
 18 A. Yeah.
 19 Q. So you have heard it only in the context of the
 20 media mentioning it and me mentioning it right
 21 now.
 22 A. Yup.
 23 Q. Sir, in your history working SWAT was there ever
 24 a time other than the Terrance Franklin incident
 25 where a suspect was killed during a SWAT event

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1 that you were involved with?
 2 A. No.
 3 Q. So this was the first and only time in your
 4 career, correct?
 5 A. Correct.
 6 Q. Sir, I want to ask you some questions about your
 7 injury. You received a bullet to the right leg,
 8 correct?
 9 A. Correct.
 10 Q. Was that in the right upper thigh, sir?
 11 A. Yes.
 12 Q. And has that affected your duties now, sir?
 13 A. Yes.
 14 Q. In what sense?
 15 A. Pain pretty much constantly throughout the day.
 16 Q. But you work as a patrol officer now, correct?
 17 A. Correct.
 18 Q. And that's what you did before this incident?
 19 A. Correct.
 20 Q. The incident I believe, sir, was on May 10, 2013,
 21 correct?
 22 A. Correct.
 23 Q. When did you recommence your work as a patrol
 24 officer after that date, sir?
 25 A. I would have to look at the computer thing that

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1 says I went back to the street, but it was
 2 sometime close to winter.
 3 Q. So your estimate would be the wintertime of 2013?
 4 A. Yeah.
 5 Q. Did you do any other duties for the department
 6 before you returned, sir, doing your patrol
 7 officer work in the winter of 2013?
 8 A. I did.
 9 Q. What did you do, sir?
 10 A. I was assigned SWAT garage.
 11 Q. How long did you work in the SWAT garage before
 12 you went back in the field as a patrol officer?
 13 A. It would have been the time frame from earlier.
 14 That's where -- I left there to go back to the
 15 street. I would have to look at a document to
 16 give you an exact answer.
 17 Q. That's fine. I appreciate that, sir. It is okay
 18 to give me an estimate. If you don't feel
 19 comfortable giving an estimate, that's fine too.
 20 Can you give me a general idea when you
 21 went back to work in essence?
 22 A. Eight months, seven months, around there.
 23 Q. But I thought that's when you came back and
 24 worked as a patrol officer. Because that would
 25 be the winter, right? That would be December?

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1 A. Correct. That's when I came back to work
 2 full-time.
 3 Q. I thought you said before you did a different
 4 kind of a job working in the SWAT garage.
 5 A. Like civilian work.
 6 Q. Right. How long was that for?
 7 A. That was for the seven, eight months.
 8 Q. Was there a period of time where you were off
 9 work?
 10 A. Yes.
 11 Q. How long was that?
 12 A. A month maybe.
 13 Q. Fair enough.
 14 So how long were you hospitalized for
 15 if you can remember, sir?
 16 A. I believe it was three days.
 17 Q. And after you were released from the hospital did
 18 you go home?
 19 A. I did.
 20 Q. Would you essentially have been at home for a
 21 period of time before you went back to work?
 22 A. Correct.
 23 Q. So you were really at home on bed rest before you
 24 went back to work.
 25 A. Correct.

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1 Q. So if someone wanted to get a hold of you or see
2 you they would have to come to your home, I take
3 it, during that time frame?
4 A. Yes.
5 Q. Because you weren't going out away from your home
6 much I take it?
7 A. Not much, no.
8 Q. Because of your injuries?
9 A. Correct.
10 Q. Sir, other than the shot to your leg did you have
11 any other injuries that you recall from this
12 incident?
13 A. Nope.
14 Q. When you went into the hospital, sir, do you
15 recall if the doctors or the nurse did a full
16 body exam of you?
17 A. I'm assuming they did. They are doctors. But I
18 wouldn't know for sure.
19 Q. Fair enough.
20 Was there ever a period of time, sir,
21 after the incident where you were rendered
22 unconscious for any reason?
23 A. I don't believe so.
24 Q. How would you describe your level of lucidity in
25 the hospital in the three days you were there?

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1 A. I was doped up on morphine pretty good. So I
2 would say it was pretty high.
3 Q. Do you remember those three days, sir?
4 A. Somewhat.
5 Q. Did people come to see you?
6 A. Yes.
7 Q. Did any members of the SWAT team come to see you
8 when you were in the hospital?
9 A. Yes.
10 Q. Who?
11 A. Couldn't give you exact names obviously. The
12 individuals that were involved in this incident.
13 Q. Let me break that down a little bit.
14 Did Lucas Peterson come to see you when
15 you were in the hospital?
16 A. Yes.
17 Q. Do you remember when?
18 A. No.
19 Q. Do you recall what you discussed with him if
20 anything?
21 A. No.
22 Q. You did have a discussion with him, right?
23 A. Yes. Like I said, I was extremely high on
24 morphine.
25 Q. That's fine.

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17

1 But you don't recall the subject of the
2 conversation?
3 A. No.
4 Q. Do you recall if you discussed the incident in
5 those three days?
6 A. No.
7 MR. CARTER: Objection, asked and
8 answered.
9 Just make sure you give me a little
10 pause before you answer.
11 BY MR. PADDEN:
12 Q. Go ahead, sir.
13 A. No.
14 Q. Did Officer Durand come to see you in the three
15 days you were in the hospital?
16 A. Yes.
17 Q. Did you have a conversation with him?
18 A. I can't recall.
19 Q. You may or may not -- the first question I have
20 is if you had a conversation. You don't recall
21 if you had a conversation?
22 A. What's your definition of a conversation?
23 Q. That's where two people talk to each other.
24 That's how I define a conversation.
25 A. I would say is it saying hello, hi, a hug,

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1 because that's all I remember.
2 Q. And so you don't recall if you had conversation
3 beyond a hi and a hug.
4 MR. CARTER: Objection, asked and
5 answered.
6 BY MR. PADDEN:
7 Q. Go ahead.
8 A. I said no.
9 Q. What about Sergeant Stender, did he come to see
10 you?
11 A. I believe so.
12 Q. Did you have a conversation with him?
13 A. No.
14 Q. So he came there and he saw you but you don't
15 recall speaking with him at all, correct?
16 A. I think we went over that on the last one. It
17 was a hug and how are you doing. That was about
18 it.
19 Q. I appreciate that. But I don't know unless I ask
20 you.
21 A. I told you no.
22 Q. Told me no about what?
23 A. When you asked me I said no. We didn't have a
24 conversation.
25 Q. I'm asking you about Stender.

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1 A. I said no to that one too.
 2 Q. I'm just trying to make a record, sir.
 3 So just to be clear for the record you
 4 don't recall him saying anything to you?
 5 A. No.
 6 Q. Did Officer Laux come in?
 7 A. Yes.
 8 Q. Do you recall a conversation with him?
 9 A. No.
 10 Q. What about Officer Stauffenberg?
 11 A. Yes.
 12 Q. Do you recall a conversation with him?
 13 A. No.
 14 Q. Do you remember what day he came to see you?
 15 A. No.
 16 Q. Do you remember what day Stender came to see you?
 17 A. No.
 18 Q. Do you remember what day Laux came to see you?
 19 A. No.
 20 Q. After you got out of the hospital you said you
 21 went home, right?
 22 A. Correct.
 23 Q. I don't need to know your address, sir, but do
 24 you live in the Twin Cities?
 25 A. I do.

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20

1 Q. And when you were at home for that period of time
 2 before you went back to work did any member of
 3 the SWAT team come to see you?
 4 A. Yes.
 5 Q. Who?
 6 A. I wouldn't be able to give you a list. The
 7 department paid the entire department to watch
 8 me. I had armed officers with me the entire time
 9 I was at the hospital and at home.
 10 I would say there's 200, 300 cops that
 11 came from the hospital to my house at different
 12 periods of time. I couldn't give you their names
 13 or when they were there.
 14 Q. Were they protecting you?
 15 A. You just always have an officer, especially at
 16 the hospital. And I live in the city of
 17 Minneapolis.
 18 Q. I get the hospital part. But when you got home
 19 are you saying that officers were there providing
 20 you protection?
 21 A. They were just always there. I live by myself.
 22 I'm unmarried. Who's going to take care of me
 23 with my medical needs?
 24 Q. Thank you for pointing that out, sir.
 25 Who did take care of you with your

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21

1 medical needs?
 2 A. Fellow officers and friends.
 3 Q. So some friends helped who were not members of
 4 the Minneapolis Police Department, correct?
 5 A. Correct.
 6 Q. I appreciate that. I know there was a lot going
 7 on. I'm not really concerned about other
 8 officers at this point.
 9 What I'm concerned about is when you
 10 were at home with bed rest before you went back
 11 to work, did Officer Peterson come to see you?
 12 A. Yes.
 13 Q. Did you have any conversation with him when he
 14 came to see you?
 15 A. I'm sure we did.
 16 Q. How many times did he come to see you, sir?
 17 A. I would have no idea.
 18 Q. You can't remember?
 19 A. No.
 20 Q. Was it more than once?
 21 A. Yes.
 22 Q. Do you remember having conversation with Officer
 23 Peterson about the incident?
 24 A. No.
 25 Q. And again, sir, I'm keying in on the time frame

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22

1 from after you left the hospital and came home
 2 before you went back to work. Okay?
 3 A. The entire time or are you asking me about the
 4 time at home?
 5 Q. The time at home. Let me back up.
 6 I'm talking about the time you got home
 7 from the hospital and you were at home before you
 8 went to work. I think you told me that was about
 9 a month, sir, correct?
 10 A. Correct.
 11 Q. Did Peterson come to see you?
 12 A. Yes.
 13 Q. Was it more than once?
 14 A. Yes.
 15 Q. Do you recall any conversations with him?
 16 A. I do not.
 17 Q. But did you have conversation.
 18 A. I'm assuming, yeah.
 19 Q. Did Durand come to see you?
 20 A. I'm sure he did.
 21 Q. More than once?
 22 A. I'm sure he did.
 23 Q. Did you have conversation with him?
 24 A. I'm sure I did.
 25 Q. Can you recall the conversations?

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23

- 1 A. No.
- 2 Q. Sir, was there a specific directive that applied
- 3 regarding this incident from someone that you
- 4 were not allowed to discuss the incident with
- 5 anyone?
- 6 A. I'm not sure.
- 7 Q. What do you mean you are not sure? You don't
- 8 remember?
- 9 A. I don't remember.
- 10 Q. Well, I guess what I'm asking is did anyone in a
- 11 position of authority above you say, Officer
- 12 Meath, you cannot discuss this incident with
- 13 anyone? Did that ever happen?
- 14 A. Not that I recall.
- 15 Q. Fair enough.
- 16 Sir, did Sergeant Stender come to see
- 17 you when you were at home?
- 18 A. I'm sure he did.
- 19 Q. Was it more than once?
- 20 A. I'm sure he did.
- 21 Q. Do you recall any conversations with Sergeant
- 22 Stender during the time that you were home before
- 23 you returned to work?
- 24 A. I do not.
- 25 Q. When you were in the hospital -- I know it was a

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25

- 1 A. No.
- 2 Q. The reason I phrase it that way, sir, when I said
- 3 officers, if I say officers would you interpret
- 4 that to include Sergeant Stender or would
- 5 Sergeant Stender be considered someone different
- 6 than an officer?
- 7 A. Sergeant Stender would be considered different.
- 8 Q. I want to make sure we are on the same wave
- 9 length.
- 10 Did you have a laptop when you were in
- 11 the hospital?
- 12 A. No.
- 13 Q. Do you have a laptop?
- 14 A. No.
- 15 Q. Did you have a laptop back in May of 2013?
- 16 A. No.
- 17 Q. Do you have an email address at work?
- 18 A. I do.
- 19 Q. When you got back to work in that month of
- 20 time -- you said it was about a month that you
- 21 went back to work, right?
- 22 A. Correct.
- 23 Q. Did you start emailing?
- 24 A. What do you mean by start emailing?
- 25 Q. It sounds like you didn't have a laptop at home

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24

- 1 relatively short period of time, three days --
- 2 were you texting with anyone?
- 3 A. I'm sure I was.
- 4 Q. So you had your cell phone with you?
- 5 A. I'm sure I did.
- 6 Q. Do you recall texting with Officer Peterson?
- 7 A. I don't recall it, no.
- 8 Q. Do you recall texting with Officer Durand?
- 9 A. I do not.
- 10 Q. Do you recall texting with Sergeant Stender?
- 11 A. I do not.
- 12 Q. But you said that you may have been texting, you
- 13 just don't remember, correct?
- 14 A. That was two years ago.
- 15 Q. Would you still have that phone and those texts,
- 16 sir?
- 17 A. No.
- 18 Q. You changed phones?
- 19 A. Yes.
- 20 Q. As part of the investigation by your employer did
- 21 they ask you for text communications with you and
- 22 the other officers involved in the incident?
- 23 A. No.
- 24 Q. Did they ask you for text communications between
- 25 you and Sergeant Stender?

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26

- 1 so I assume that -- maybe I should clarify this.
- 2 Did you have a computer at home?
- 3 A. What's your definition of a computer?
- 4 Q. Well, a laptop might be considered different than
- 5 someone that has a monitor in their home with an
- 6 actual computer.
- 7 A. I have neither of those.
- 8 Q. Fair enough.
- 9 Are you someone that emails at work?
- 10 A. Work emails.
- 11 Q. Was that the case in May of 2013 and June of
- 12 2013?
- 13 A. My policy is I have to check my mail every day I
- 14 come to work. So I would say I checked my email.
- 15 Q. It is normal, sir, with your employment for
- 16 people to communicate with you by way of email.
- 17 A. Correct.
- 18 Q. When you got back to work did you start emailing
- 19 again?
- 20 A. I would say so, yes.
- 21 Q. Did you ever email with anyone in the department
- 22 about this incident?
- 23 A. I'm assuming that I get things through the
- 24 attorneys and things, but other than that I can't
- 25 recall.

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1 Q. Do you recall ever emailing Officer Peterson
2 about the Franklin incident?
3 A. I do not.
4 Q. But you would have the capability to email
5 Officer Peterson, correct?
6 A. I would.
7 Q. Did you ever email Officer Durand about the
8 Terrance Franklin incident?
9 A. Not that I recall. I would have to check my in
10 box and sent box.
11 Q. Would you still have your emails from 2013, sir?
12 A. I wouldn't. The city would.
13 Q. But is it accessible to you?
14 A. Obviously.
15 Q. I was just asking if going back -- because we are
16 now over two years ago -- you would have access
17 to that yourself?
18 A. Whatever is in there.
19 Q. So it is something you could check, right?
20 A. Correct.
21 Q. And Sergeant Stender, do you recall emailing with
22 him about this incident back in 2013?
23 A. I do not.
24 Q. Did the department as part of the investigation
25 ever request from you any email communications

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1 left.
2 Q. Did you have any conversations with Officer Muro
3 in the hospital about the specifics of what
4 happened in this incident?
5 A. I did not.
6 Q. What about after you got out of the hospital and
7 you were home?
8 A. I did not.
9 Q. Any emails with Officer Muro about this incident?
10 A. Not that I recall.
11 Q. Any text communications with Officer Muro about
12 this incident?
13 A. Not that I recall.
14 Q. Were you -- texting is kind of something that has
15 come in vogue the last few years. Were you a
16 person who utilized texting in May of 2013?
17 A. I believe so.
18 Q. Did you do it a lot or was it kind of a rare
19 thing for you?
20 A. It is hard to say. I have never liked texting.
21 Q. You had an escort officer from the scene of
22 Franklin's death to the hospital, right?
23 A. An ambulance.
24 Q. You don't recall an escort officer?
25 A. No.

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1 between you and the other involved officers who
2 were directly involved with Terrance Franklin at
3 the time he passed away on May 10, 2013?
4 A. They wouldn't have to.
5 Q. What's that?
6 A. They wouldn't have to.
7 Q. They can access it on their own?
8 A. Correct.
9 Q. Do you know if they ever did?
10 A. Not to my knowledge.
11 Q. Did they ever advise you that they were going to
12 do that?
13 A. Again, I don't think they would have to. It is
14 their property.
15 Q. I appreciate that. I get that. But did they
16 ever specifically advise you they were checking
17 your email?
18 A. It was two years ago. I don't know.
19 Q. So you don't remember.
20 A. I don't remember.
21 Q. In the first month after the incident did you
22 have any contact whatsoever with Ricardo Muro?
23 A. I did.
24 Q. Tell me when.
25 A. I remember seeing him at the hospital before I

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1 Q. Did you discuss with anyone, sir, en route from
2 the scene to the hospital what had happened?
3 A. No.
4 Q. Is it your testimony the first time you ever
5 spoke specifically about the actual circumstances
6 of this incident when you gave your, statement
7 your formal statement as part of the
8 investigation?
9 A. Yes.
10 Q. Is it fair to say you didn't discuss the facts of
11 the case -- or the facts of what happened with
12 anyone up until the time you gave your statement?
13 A. I guess it depends what you mean by facts or what
14 you are talking about.
15 Q. Did you ever discuss the specific circumstances?
16 By facts I mean what happened in that basement,
17 sir. Did you ever discuss that with anyone
18 before you gave your statement?
19 A. I guess I'm trying to understand what you mean
20 because obviously I have a gunshot wound from a
21 suspect. Every time somebody asks me how I'm
22 doing that's factual of the case.
23 Q. Other than that did you ever discuss with anyone
24 what happened?
25 A. Mainly how I'm doing, my injuries, how are you

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1 doing. It was the most traumatic experience of
2 my life.
3 Q. So there were conversations about how are you
4 doing with your injuries, but you did not discuss
5 with anyone before you gave your formal statement
6 what happened in that basement or anything about
7 what happened in basement other than the fact you
8 were injured, is that fair?
9 A. No. I discussed it.
10 Q. With who?
11 A. My attorney.
12 Q. Who was your attorney, sir?
13 A. I can't remember his name.
14 Q. Was he assigned to you from the union?
15 A. He was.
16 Q. When did you first meet with the -- I'm not going
17 to ask you any conversations with the attorney,
18 sir. That's not appropriate for me to do that.
19 But I would like to know when you first met with
20 him.
21 A. Again, I wouldn't know. He would probably have a
22 record of that.
23 Q. Who would?
24 A. The attorney.
25 Q. But you don't know who it is, right?

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1 A. Well, I mean, you would have to figure that out.
2 Q. Do you remember the name Fred Bruno?
3 A. I do.
4 Q. Was he your attorney?
5 A. No.
6 Q. Regardless of what the guy's name is, can you --
7 strike that.
8 Are you telling me you can't tell me
9 when you first met with him?
10 A. It would be sometime prior to me giving my
11 statement.
12 Q. How many times did you meet with him?
13 A. I believe it was one to two times.
14 Q. Where did you meet with him?
15 A. In his office.
16 Q. So you went to his office?
17 A. Correct.
18 Q. Do you remember where the office was located?
19 A. It is right on the next block.
20 Q. From where we are sitting in city hall?
21 A. I have no idea which way we are facing in city
22 hall but it is the next building over from the
23 federal court building.
24 Q. Fair enough.
25 And it looks like you gave your

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1 statement on May 24, 2013 at 11:53 a.m. according
2 to the document I have. Is that correct, sir?
3 A. Correct.
4 Q. I'm looking at the top. Does that meet with your
5 memory?
6 A. Sure.
7 Q. So it was about two weeks after the incident,
8 right?
9 A. Yes.
10 Q. Did you have counsel present with you at that
11 time?
12 A. I did.
13 Q. So the lawyer that you met with after the time of
14 this incident was not someone you knew before
15 this incident?
16 A. No.
17 Q. Was it John Delmonico that lined up that attorney
18 for you?
19 A. I have no idea.
20 Q. How was it that you ended up going to see the
21 guy? Didn't someone have to set up the logistics
22 of that?
23 A. I believe they called me. I don't know who
24 called me.
25 Q. You just said they. Who's the they part?

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1 A. The federation would set it up. I wouldn't know
2 who.
3 Q. So it was the federation that set up the
4 logistics of you meeting with the attorney,
5 correct?
6 A. Correct.
7 Q. And that same attorney was present with you at
8 the time you gave the statement.
9 A. Yes.
10 Q. When you met with the attorney was anyone else
11 present --
12 A. No.
13 Q. -- in the one or two meetings?
14 A. No.
15 Q. Was that one or two meetings before the day of
16 the statement?
17 A. Correct.
18 Q. So the statement would have been the second or
19 third time you met with the lawyer, right?
20 A. Yes.
21 Q. Did the lawyer provide any paperwork to you in
22 those meetings?
23 A. No.
24 Q. Sir, when you gave your statement on May 24, 2013
25 were you aware that three of the other officers

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1 had already given statements?
 2 **A. No.**
 3 **Q.** So you weren't aware that Stender and Durand gave
 4 statements three days after the incident?
 5 **A. No.**
 6 **Q.** You weren't aware that Peterson gave a statement
 7 four days after the incident?
 8 **A. No.**
 9 **Q.** Are you aware that the other officers had a
 10 meeting with a lawyer by the name of Fred Bruno
 11 before the time that you gave your statement?
 12 That some of the officers had a meeting with an
 13 attorney by the name Fred Bruno before you gave
 14 your statement.
 15 **A. No.**
 16 **Q.** Did any of the other officers that were involved
 17 with Franklin in the basement, sir, Stender,
 18 Peterson, Durand and Muro -- strike that --
 19 Stender, Peterson and Durand, tell you that they
 20 had had a meeting with Fred Bruno before they
 21 gave their statements?
 22 **A. I do not recall. I would assume they met with an**
 23 **attorney just as I did.**
 24 **Q.** But you don't recall discussing that topic with
 25 them?

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1 **A. No.**
 2 **Q.** Did you ever see the statements, the typed up
 3 statements of Stender, Durand and Peterson,
 4 before you gave your statement?
 5 **A. No.**
 6 **Q.** Other than counsel did anyone ever brief you on
 7 -- by prefacing the question that way I'm not
 8 saying the attorney told you anything about what
 9 they said. I want your answer to be any
 10 conversations or any information other than what
 11 you may have discussed with your attorney. Okay?
 12 **A. Uh-huh.**
 13 **Q.** That's a yes?
 14 **A. I understand your question.**
 15 **Q.** You did the uh-huh thing.
 16 **A. Yes.**
 17 **Q.** Did anyone brief you on what those three guys
 18 said in their statements?
 19 **A. No.**
 20 **Q.** Did anyone brief you about the statements
 21 individually?
 22 **A. No.**
 23 **Q.** So is it your testimony that when you gave your
 24 statement on May 24, 2013 you had no idea what
 25 those three officers had disseminated as part of

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1 the official investigation in terms of how the
 2 event happened?
 3 **A. Yes.**
 4 **Q.** You knew, sir, didn't you, before May 24, 2013
 5 when you gave your statement that when an officer
 6 is involved in a situation with a citizen where
 7 the citizen is killed, it could be the
 8 possibility that there could be a grand jury
 9 investigation, right?
 10 **A. Correct.**
 11 **Q.** And in the beginning of the statement, sir, you
 12 were advised of the possibility that the matter
 13 could be presented to a grand jury, correct?
 14 **A. Correct.**
 15 **Q.** So you knew that the information you were
 16 providing obviously could potentially be
 17 significant, correct?
 18 **A. Correct.**
 19 **Q.** Not only for you but for other people you work
 20 with, correct?
 21 **A. Correct.**
 22 **Q.** Do you have the calling card or anything like
 23 that of the attorney?
 24 **A. I may have it somewhere at home.**
 25 **Q.** Would that be something that perhaps would be on

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1 the computer, who the attorney was?
 2 MR. CARTER: Objection, vague.
 3 THE WITNESS: I guess what --
 4 BY MR. PADDEN:
 5 **Q.** On your email at work?
 6 **A. No.**
 7 **Q.** Did the attorney ever email you?
 8 **A. No.**
 9 **Q.** Sir, did anybody in a position of authority with
 10 the Minneapolis Police Department, for example
 11 Chief Harteau, Chris Arneson or someone with the
 12 rank of lieutenant, ever ask you for your version
 13 of the events in that basement before you gave
 14 your statement on May 24, 2013?
 15 **A. No.**
 16 **Q.** Did any person in the hierarchy of the
 17 Minneapolis Police Department, lieutenants, Chris
 18 Arneson or Chief Harteau, tell you not to discuss
 19 the matter with any of your fellow officers
 20 before you gave your formal statement?
 21 MR. CARTER: Objection, asked and
 22 answered.
 23 BY MR. PADDEN:
 24 **Q.** Go ahead. You can answer, sir.
 25 **A. Not that I recall.**

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1 Q. Did Stender tell you not to do that?
 2 A. **Not that I recall.**
 3 Q. Before you gave your statement on May 24, 2013,
 4 sir, did any of the other officers in that
 5 basement tell you that Terrance Franklin had shot
 6 you?
 7 MR. CARTER: Could you repeat that
 8 question for me?
 9 MR. PADDEN: You can read it back,
 10 Kris.
 11 (At this time the requested portion of
 12 the record was read back by the Court Reporter.)
 13 BY MR. PADDEN:
 14 Q. Let me clarify that. Who were in the basement at
 15 the time Franklin was killed.
 16 A. **Not that I recall. I obviously knew myself. I**
 17 **had a gunshot wound.**
 18 Q. That doesn't mean that he shot you, does it?
 19 MR. CARTER: Can I just --
 20 MR. PADDEN: Make your objection.
 21 MR. CARTER: I'm going to object as
 22 vague.
 23 Are you talking about after the
 24 incident occurred or during the incident?
 25 MR. PADDEN: I will ask it again then.

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1 BY MR. PADDEN:
 2 Q. Sir, are you saying that because you were shot it
 3 is your assumption that the suspect had to have
 4 shot you? Is that what you are saying?
 5 A. **Yes.**
 6 Q. Yes?
 7 A. **Yes.**
 8 Q. Thank you.
 9 Sir, at some point did you become aware
 10 of the fact that a citizen by the name of Jimmy
 11 Gains had videotaped in front of the home where
 12 the incident occurred? When did you become aware
 13 of that, if at all?
 14 A. **I would have no idea.**
 15 Q. But you did become aware of it.
 16 A. **Correct.**
 17 Q. Did you become aware of it before you gave your
 18 statement?
 19 A. **That I couldn't tell you either.**
 20 Q. Before you gave your statement on May 24, 2013 do
 21 you ever recall discussing that video with
 22 Officer Peterson?
 23 A. **I don't recall.**
 24 Q. Before you gave your statement on May 24, 2013 do
 25 you recall discussing that video with Sergeant

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1 Stender?
 2 A. **I do not recall.**
 3 Q. Before you gave your statement on May 24, 2013 do
 4 you recall discussing that video with Officer
 5 Durand?
 6 A. **I do not recall.**
 7 Q. Before you gave your statement on May 24, 2013 do
 8 you recall discussing that video with Officer
 9 Muro?
 10 A. **I do not recall.**
 11 Q. Before you gave your statement on May 24, 2013 do
 12 you recall discussing that video with Chief
 13 Harteau?
 14 A. **No.**
 15 Q. Did anyone in the hierarchy of the Minneapolis
 16 Police Department, again lieutenants, Chris
 17 Arneson -- who I think is the assistant chief.
 18 Is that what her title is?
 19 A. **I have no idea.**
 20 Q. But you understand she has a high rank in the
 21 department, right?
 22 A. **I have no idea.**
 23 Q. You don't know who she is?
 24 A. **No.**
 25 Q. You have no idea who Chris Arneson is.

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1 A. **No.**
 2 Q. Chief Harteau, did any of them talk to you about
 3 that video before you gave your statement on May
 4 24, 2013?
 5 A. **No.**
 6 Q. Do you recall viewing the video that was posted
 7 on YouTube, sir, in full before you gave your
 8 statement on May 24, 2013?
 9 A. **I do not recall.**
 10 Q. But you do recall seeing it.
 11 A. **Correct.**
 12 Q. Do you recall in what context?
 13 A. **I believe it was on the news.**
 14 Q. Was it just like a brief clip of it?
 15 A. **I'm not sure.**
 16 Q. But you never endeavored yourself to go on to
 17 YouTube and watch it yourself?
 18 A. **I may have. I don't remember.**
 19 Q. You don't remember?
 20 A. **No.**
 21 Q. Do you happen to remember if when you watched it
 22 you recall any -- if you could hear any words on
 23 the video?
 24 A. **I can hear words.**
 25 Q. What could you hear if you remember, sir?

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- 1 A. I only remember because I had to watch it the
2 other day for the paperwork you sent over.
3 Q. So you watched the video recently I take it with
4 your attorneys.
5 A. Correct.
6 Q. Is that the first time you had watched it since
7 2013?
8 A. No.
9 Q. Can you tell me when you watched it between 2013
10 and the time you watched it with your attorneys
11 in preparation for this deposition?
12 A. I believe I answered that.
13 Q. I thought you said it was before you gave your
14 statement.
15 A. I said I could not recall when I answered it. I
16 didn't remember within the ten seconds that you
17 just asked the question.
18 Q. I'm sorry. I think you told me, sir, and I'm not
19 trying to misquote you, that you may have watched
20 it before you gave your statement on May 24,
21 2013, right?
22 A. Correct.
23 Q. The next question I asked was since that time up
24 until the time you watched it recently with your
25 counsel had you looked at it?

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- 1 A. May have. May have not. I'm not sure.
2 Q. Going back to 2013, do you recall if you are able
3 to hear any words on the video?
4 A. Yes.
5 Q. What did you hear?
6 A. I would have to watch it again to make sure it
7 was a clear representation of what I'm hearing.
8 Q. Fair enough.
9 We are going to do that later, but I
10 was just checking to see what you remembered back
11 before you gave your statement. And that might
12 help to refresh your memory watching it, correct?
13 A. Correct.
14 Q. Sir, to your knowledge did your employer ever
15 enhance the video, any video taken by that
16 citizen, Jimmy Gains?
17 A. I wouldn't know.
18 Q. So is it fair to say there was never a point in
19 time where someone with the department sat down
20 with you and watched the video and described it
21 as an enhanced version of the audio? That never
22 happened, correct?
23 A. No.
24 Q. Sir, I want to ask you about some of the members
25 on your SWAT team.

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- 1 How are you doing, sir? Are you
2 holding up okay?
3 A. Uh-huh.
4 Q. You don't need a break?
5 A. No.
6 Q. I want to ask you about your relationship with
7 them.
8 Officer Peterson, is he someone that
9 you did things socially with before May 24, 2013?
10 A. I would have to know your definition of what
11 socially means.
12 Q. Totally fair question, sir. I'm assuming during
13 your work shift there will be times where you
14 guys take breaks, right?
15 A. Correct.
16 Q. I'm talking about outside of work. Did you ever
17 do anything socially with him outside of work,
18 for example where you would be wearing civilian
19 clothes?
20 A. Yes.
21 Q. How many times?
22 A. I would have no idea.
23 Q. Is he a good friend of yours?
24 A. We are friends.
25 Q. Have you ever been to his lake home?

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- 1 A. No.
2 Q. Do you know his wife?
3 A. I do.
4 Q. Do you know her by -- are you on a first name
5 basis with her?
6 A. Yes.
7 Q. I don't need to know her name. I'm just trying
8 to get an idea of how well you knew him.
9 Have you ever done anything with his
10 kids?
11 A. No.
12 Q. What kind of things have you done with him
13 socially?
14 A. Played hockey together.
15 Q. Like in a men's league or something?
16 A. Yes.
17 Q. What league was that?
18 A. The Blaine men's league.
19 Q. Did you play with gentlemen, sir, that were not
20 members -- not in law enforcement?
21 A. Yes.
22 Q. For how long have you played in a hockey league
23 with him?
24 A. Seven, eight years.
25 Q. Did you first meet him when you became a member

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1 of SWAT?

2 A. No.

3 Q. What year did you first meet Officer Peterson,

4 sir?

5 A. I couldn't give you an exact year.

6 Q. Can you give me an estimate?

7 A. Between 1995 and '97.

8 Q. Did you know him before you became a member of

9 the Minneapolis Police Department?

10 A. Yes.

11 Q. How did you meet him?

12 A. Went to high school together.

13 Q. That was Minneapolis South?

14 A. Yes.

15 Q. So you knew Officer Peterson before you became a

16 member of the department.

17 A. Yes.

18 Q. Did you have conversations with him about

19 applying for the job?

20 A. No.

21 Q. So is it fair to say you have been friends with

22 him since '95 to '97?

23 A. Yes and no.

24 Q. Of all of the members of the SWAT team would he

25 be the person that you would be closest to?

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1 Q. What kind of things have you done with him

2 socially?

3 A. Outside of work?

4 Q. Sure.

5 A. I mean, we are all forced to do things outside of

6 work.

7 Q. What do you mean forced?

8 A. You go on training things. You are not being

9 paid but you are staying in a hotel together,

10 room together, you are forced to go out to eat,

11 to dinner.

12 Q. Does the department try to set -- arrange things

13 so you guys develop a close relationship in your

14 opinion?

15 A. No.

16 Q. When I was asking you about doing things socially

17 I didn't mean training. I'm talking about a part

18 from training like in civilian clothes.

19 A. I am in civilian clothes when I answered that

20 question.

21 Q. What's that?

22 A. We are in civil clothes when I answered that

23 question.

24 Q. When you do training?

25 A. I said after training.

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1 A. Define close.

2 Q. Well, I'm talking about in terms of a social

3 relationship, sir, outside of work.

4 A. No.

5 Q. Who are you closer to?

6 A. I have other friends that I'm closer with.

7 Q. That are members of the SWAT team?

8 A. Of the department.

9 Q. What about members of the SWAT team?

10 A. Yes.

11 Q. Have you ever done anything socially with Officer

12 Durand outside of work?

13 A. Yes.

14 Q. How often?

15 A. Again, wouldn't be able to give you an exact

16 number.

17 Q. Is the SWAT team, sir, in the Minneapolis Police

18 Department -- are you guys a tight knit unit?

19 Are you guys close?

20 A. No.

21 Q. What about Sergeant Stender, have you ever done

22 anything with him socially outside of work?

23 A. Yes.

24 Q. How often?

25 A. Again, I wouldn't be able to give you a number.

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1 Q. So you would do things socially after training.

2 A. Yes.

3 Q. Did you ever discuss with Officer Peterson an

4 incident involving a Chris Burns from 2002?

5 A. No.

6 Q. Have you ever discussed with Officer Peterson an

7 incident involving a woman named Nancy Johnson in

8 2006?

9 A. No.

10 Q. Are you familiar with the Nancy Johnson incident?

11 A. No.

12 Q. You don't know anything about it, right?

13 A. I wouldn't know who that was.

14 Q. What about the name Dominick Simons, do you know

15 that name at all?

16 A. No.

17 Q. Did you know Brian Thole before May 24, 2013?

18 A. What was the date that you gave me?

19 Q. On the date you gave your statement did you know

20 Brian Thole?

21 A. Yes.

22 Q. He is somebody that you had worked on the SWAT

23 team with, correct?

24 A. Never worked with him personally, no.

25 Q. But he was a member of the SWAT team, right?

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- 1 A. Correct.
- 2 Q. Did you know him by name?
- 3 A. I did.
- 4 Q. First name basis?
- 5 A. I usually call everybody by their last name. So
- 6 no.
- 7 Q. Do guys have nicknames on the team, sir?
- 8 A. No.
- 9 Q. What do you call Officer Peterson?
- 10 A. Luke or Peterson.
- 11 Q. What did you call Brian Thole?
- 12 A. Thole.
- 13 Q. You are aware of the fact, sir, that he was
- 14 involved in an incident in Green Bay, Wisconsin
- 15 at the end of June where he was off duty?
- 16 A. Yes.
- 17 Q. Are you familiar with the circumstances of that
- 18 incident, sir?
- 19 A. Somewhat.
- 20 Q. Were there ever any meetings in the department
- 21 with anyone, formal meetings, about Brian Thole's
- 22 incident in Green Bay, Wisconsin at the end of
- 23 June of 2013?
- 24 A. I wouldn't know.
- 25 Q. Did anyone in the department ever tell you not to

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- 1 A. Never seen or heard anybody talk like that.
- 2 Q. So in your experience working for the Minneapolis
- 3 Police Department you have never heard officers
- 4 in the department use racial slurs with African
- 5 American suspects in the field, would that be
- 6 your testimony?
- 7 A. Correct.
- 8 Q. Was there a specific directive, sir, when you --
- 9 during the time you have been with the department
- 10 that using racial slurs in the field with African
- 11 Americans or people that would be dark skinned
- 12 like Africans, not necessarily African Americans,
- 13 that that would be a violation of department
- 14 policy?
- 15 A. It would be.
- 16 Q. Who told you that?
- 17 A. It is in the policy manual I believe.
- 18 Q. Do you remember what part of the policy manual,
- 19 sir?
- 20 A. No.
- 21 Q. So the policy manual says you cannot use racial
- 22 slurs with African Americans?
- 23 A. I'm not sure.
- 24 Q. Do you know if the policy manual is referring to
- 25 all people of color or just African Americans?

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- 1 talk to the media about the Brian Thole incident
- 2 in Green Bay?
- 3 A. No.
- 4 Q. What about Shawn Powell?
- 5 A. No.
- 6 Q. So you do know something about what happened in
- 7 Green Bay?
- 8 A. Somewhat.
- 9 Q. Are you aware of the fact that it is alleged that
- 10 the officers when dealing with the Green Bay
- 11 Police Department used the word nigger? Were you
- 12 aware of that?
- 13 A. Yes.
- 14 Q. You were aware the guys were fired, weren't you?
- 15 A. Yes.
- 16 Q. You are aware also, sir, that that incident was a
- 17 high profile event from a media perspective in
- 18 the Twin Cities, right?
- 19 A. Yes.
- 20 Q. Did you watch any of those media stories?
- 21 A. Yes.
- 22 Q. When you heard about what had happened in Green
- 23 Bay, sir, were you surprised by that?
- 24 A. Yes.
- 25 Q. Why?

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- 1 A. I'm assuming it is talking about all people of
- 2 the world.
- 3 Q. Like for example there are derogatory racist
- 4 terms that you could use for people that are
- 5 Asian, right?
- 6 A. Correct.
- 7 Q. And there would be derogatory terms you can use
- 8 for people who are Hispanic?
- 9 A. Correct.
- 10 Q. But whether it is Hispanic people, Asian people
- 11 or African Americans, any person of color, it
- 12 would be a violation of department policy to use
- 13 racial slurs in the field, right?
- 14 A. Yes.
- 15 Q. Was the word nigger used in the interaction with
- 16 Terrance Franklin on May 10, 2013?
- 17 A. No.
- 18 Q. You didn't hear it, right?
- 19 A. No.
- 20 Q. You didn't use any racial slurs, did you?
- 21 A. No.
- 22 Q. During the time you interacted -- your team
- 23 interacted with Terrance Franklin in the basement
- 24 on May 10, 2013 at 2717 Bryant did Mr. Franklin
- 25 ever say anything?

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- 1 A. Not that I recall.
- 2 Q. You don't recall ever hearing him say anything,
- 3 right?
- 4 A. Correct.
- 5 Q. Sir, back in May of 2013 were any African
- 6 Americans on the MPD SWAT team to your knowledge?
- 7 A. Can you repeat that again?
- 8 Q. Back in May of 2013 were any African Americans
- 9 members of the Minneapolis Police Department SWAT
- 10 team?
- 11 A. Yes.
- 12 Q. How many?
- 13 A. Two I believe.
- 14 Q. What were their names?
- 15 A. Shawn Williams, Tyrone Bars.
- 16 Q. How many members are there now that are African
- 17 Americans?
- 18 A. I believe there is three or four, three.
- 19 Q. Sir, during the time that you were in the
- 20 basement at 2717 Bryant did you ever see anyone
- 21 either during the incident or after the incident
- 22 who was wearing gloves?
- 23 A. I can't recall of the first part and yes to the
- 24 second part.
- 25 Q. Who was wearing gloves, sir?

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- 1 A. The paramedics that were working on me.
- 2 Q. Do you recall, sir, who came in the basement
- 3 after Franklin had been killed other than the
- 4 paramedics, if you happen to recall anyone, sir?
- 5 A. No.
- 6 Q. Do you recall seeing DOC Dave in the basement
- 7 after Franklin was killed?
- 8 A. No.
- 9 Q. Did you actually hear the MP-5 discharging, sir?
- 10 A. I guess I would have to figure out what you are
- 11 looking at.
- 12 Q. Well, Officer Durand brought an MP-5 into the
- 13 basement, right?
- 14 A. Correct.
- 15 Q. Are you able to tell me if that firearm
- 16 discharged during the incident with Terrance
- 17 Franklin?
- 18 A. No.
- 19 Q. You never heard it?
- 20 A. I guess I would have -- you would have to explain
- 21 your question better.
- 22 Q. Which question?
- 23 A. Are you asking me if I heard a gunshot or if I
- 24 heard an MP-5?
- 25 Q. Isn't an MP-5 a gun?

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- 1 A. I heard a gunshot. That's not what you asked me.
- 2 Q. So you heard a gun discharge? I'm using the term
- 3 discharge. You know what that means, right?
- 4 A. Yes.
- 5 Q. How many times did it discharge?
- 6 A. I heard one boom.
- 7 Q. And did you immediately feel pain at that point?
- 8 A. I did.
- 9 Q. What I want to ask you, sir, is from the time
- 10 that you heard that discharge, how much time
- 11 elapsed from the time that Franklin was killed?
- 12 A. I wouldn't be able to give you an exact number.
- 13 Q. Was it quick?
- 14 A. I mean, the whole situation was dynamic and very
- 15 fast.
- 16 Q. Was it within seconds?
- 17 A. Again, I told you I couldn't give you a number.
- 18 Q. Were you ever asked that question, sir, the time
- 19 gap, were you ever asked that question when you
- 20 gave your statement to the police? Strike that.
- 21 When you gave your statement as part of the
- 22 official investigation.
- 23 A. I'm not sure. I would have to review my
- 24 statement if it is in there.
- 25 Q. If I ask you from the time frame that you felt

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- 1 pain up until the time that Franklin was killed,
- 2 would you be able to give me a time estimate?
- 3 A. It is the same answer I just gave you.
- 4 Q. Which is what?
- 5 A. I can't give you a number.
- 6 Q. Fair enough.
- 7 Sir, it is my understanding that you
- 8 were in the Haaf ramp in a van when you found out
- 9 about this situation?
- 10 A. Correct.
- 11 Q. Can you recall what you heard over the radio,
- 12 sir, if anything?
- 13 A. No.
- 14 Q. Sir, isn't it true that one of the radio
- 15 communications said that this person, this
- 16 suspect, had tried to run over a Minneapolis
- 17 police officer?
- 18 A. I wouldn't be able to say for sure. You would
- 19 have to listen to the audio.
- 20 Q. Do you remember?
- 21 A. I don't remember hearing it over the air, no.
- 22 Q. Did someone tell you that the guy that you were
- 23 going to go out to hopefully find had attempted
- 24 to run over a Minneapolis police officer?
- 25 A. Again, I'm not sure if I heard it.

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1 Q. Do you recall Officer Durand during the drive
 2 from the Haaf ramp to the area where 2717 Bryant
 3 was -- do you recall any officer in the van
 4 briefing your group as to what the situation was?
 5 A. I don't recall. I was driving.
 6 Q. What's that?
 7 A. I don't recall. I was driving.
 8 Q. You were driving the vehicle?
 9 A. Correct.
 10 Q. Are you saying that by driving that affects your
 11 ability to recall what happened?
 12 A. I was driving the van. I can't remember what I
 13 heard and what I didn't.
 14 Q. Weren't the radio communications coming right out
 15 of the front part of the vehicle?
 16 A. There's multiple speakers.
 17 Q. Where is the radio located in the van, sir?
 18 A. Right in the middle between the driver and the
 19 passenger is where the radio itself is located.
 20 Q. If there was radio communication coming out of
 21 the speakers in that vehicle, sir, I take it you
 22 would be able to hear the communication, correct?
 23 A. Correct.
 24 Q. So were there radio communications en route?
 25 A. Like I said, I'm sure there was. I would have to

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1 listen to the audio itself.
 2 Q. But you don't recall specifically what -- you
 3 don't remember what the radio communications
 4 were.
 5 A. No.
 6 Q. Can you tell me, sir, during that drive if you
 7 recall any information that came over the radio
 8 about the suspect?
 9 A. Again, I don't know where I learned the
 10 information, whether it was via the radio or the
 11 computer.
 12 Q. What was it that you learned?
 13 A. That a suspect had fled the scene of a vehicle
 14 chase and ran off into a neighborhood.
 15 Q. Did you receive the information that he had
 16 struck a Minneapolis police vehicle?
 17 A. I'm sure I did.
 18 Q. Did you receive the information that he had
 19 attempted to run over a Minneapolis police
 20 officer?
 21 A. That I do not recall.
 22 Q. After you arrived at the scene did you get out of
 23 the van?
 24 A. I did.
 25 Q. Then did you receive any other information about

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1 the suspect up until the time you ended up in the
 2 yard of 2717 Bryant?
 3 A. Just the same. That he had red sweat pants on
 4 and long dreadlocks.
 5 Q. You had received information I take it, sir, that
 6 there was a thought or presumption that he
 7 perhaps could be in that home.
 8 A. Can you repeat that again?
 9 MR. PADDEN: Read it back, Kris.
 10 (At this time the requested portion of
 11 the record was read back by the Court Reporter.)
 12 MR. CARTER: I will object to that as
 13 vague and to the form of the question. Go ahead.
 14 BY MR. PADDEN:
 15 Q. Go ahead and answer, sir.
 16 A. I guess I'm looking at when you are looking for
 17 when I learned that or how we came to that.
 18 Q. I was just curious if somebody had communicated
 19 to you in any way that there was an assumption
 20 that the suspect could be in that home.
 21 A. I guess I'm still lost on your question.
 22 Q. I was just wondering -- you ended up in the back
 23 yard of that home, didn't you?
 24 A. Correct.
 25 Q. Didn't you receive a communication either

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1 verbally or by radio communication that there was
 2 a thought that this guy Franklin could be in the
 3 house?
 4 A. I guess you are still --
 5 Q. You don't understand the question?
 6 A. No.
 7 Q. Did you receive information that there was damage
 8 in the back of the home?
 9 A. Yes.
 10 Q. And did your team operate under the assumption,
 11 sir, before you entered the home that Franklin
 12 might be in there?
 13 A. Again, your --
 14 Q. Again what, sir?
 15 A. Can I --
 16 Q. Let me ask.
 17 Are you telling me you don't understand
 18 the question?
 19 A. Yes.
 20 MR. PADDEN: Read it back, Kris.
 21 (At this time the requested portion of
 22 the record was read back by the Court Reporter.)
 23 THE WITNESS: Someone was in there.
 24 BY MR. PADDEN:
 25 Q. How long were you in the yard waiting before

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1 Sergeant Stender came with his K9 unit?

2 A. Again, I wouldn't be able to give you a time
3 frame on that. It should all be documented
4 through MECC and GPS and radio traffic. You
5 should be able to get the timelines through that.

6 Q. I appreciate that. I'm asking for your memory.
7 Are you saying you don't remember?

8 A. I don't want to give it incorrect when I can
9 obviously get the data for myself to give it to
10 you correctly. So if you had those documents I
11 could give you an exact.

12 Q. Can you give me an estimate as to how long you
13 were in the yard before Sergeant Stender arrived
14 with his K9 unit?

15 A. I cannot.

16 Q. Sir, before you went into the home -- at some
17 point you went into the home, correct?

18 A. Correct.

19 Q. I'm going to ask you a question about what
20 firearms you had when you went in. Firearm or
21 firearms. But before we do that I'm going to
22 take a short break if that's okay.
23 (At this time a recess was had.)

24 BY MR. PADDEN:

25 Q. Back on the record, sir. There was something I

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1 I had missed that I wanted to ask you about before
2 I get into the firearms.

3 You have been the subject of a couple
4 of internal affairs investigations, sir?

5 A. Yes.

6 Q. Do you recall a matter concerning Max Graves,
7 Junior from January of 2012?

8 A. I would have to look at the complaint.

9 Q. The case settled for \$90,000 according to the
10 information I received from your counsel. And
11 you were dismissed from the case apparently. Do
12 you recall that at all?

13 A. I mean, I recall being dismissed from something
14 but I would have to look at the actual complaint
15 and my report from it to give you a --

16 Q. Do you recall being questioned by internal
17 affairs about that incident?

18 A. I'm sure I was.

19 Q. The next one, sir, is Anna Otieno, O T I E N O,
20 and Kyle Walton and Megan Wong. It was a case
21 that settled for \$169,500 and the attorney was
22 Robert Bennett. Do you recall that case?

23 A. I recall of the case but no specifics. Again, I
24 would have to look at the actual complaint.

25 Q. Do you recall the matter in any event, what it

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[illegible]

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Category	Percentage
1	1%
2	1%
3	99%
4	99%
5	99%
6	99%
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10	99%
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1 thing.

2 **A. Correct.**

3 **Q.** Sir, going back to a couple other matters before
4 we talk about the firearms.

5 Can you tell me what your cell phone
6 number was in May of 2013?

7 **MR. CARTER:** So I will just object to
8 that question, also ask that this his cell phone
9 number be under seal.

10 **MR. PADDEN:** That's fine.

11 **THE WITNESS:** Do I have to give my
12 personal cell phone number out?

13 **BY MR. PADDEN:**

14 **Q.** What I'm concerned about is the cell phone you
15 would have been using on the date of the Franklin
16 incident. Is that -- let me ask it this way,
17 sir.

18 The cell phone, is that a department
19 issued phone?

20 **A. I have a department issued phone and I have a
21 personal phone.**

22 **Q.** Were you using the department issued phone that
23 day?

24 **A. If I was working I always have to have it on my
25 person. So it would be safe to say probably yes.**

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1 Q. Can I get that number?
2 A. That one you can have.
3 Q. Go ahead.
4 A. [REDACTED] 0.
5 Q. Is that still your number for your work, sir?
6 A. Yes.
7 Q. Who is the carrier for that phone, sir?
8 A. It is AT&T now. At the time I believe it was
9 somebody different.
10 Q. Do you remember who it was at the time?
11 A. I want to say Sprint but, again, that's kind of
12 not a certain answer but it is pretty close.
13 Q. I appreciate that. This isn't a test. Your best
14 memory is fine.
15 Sir, I asked you about computers you
16 had earlier. I forgot to ask if you had an iPad
17 or a tablet type device back in May of 2013 or
18 during that general time frame.
19 A. I did.
20 Q. Did you disseminate emails from those devices?
21 A. Yes.
22 Q. Would those still exist?
23 A. They may.
24 Q. Did you communicate by email on that device with
25 Officer Peterson, or those devices?

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1 A. No.
 2 Q. I say iPad or a tablet. Was it one or the other?
 3 A. It was an iPad.
 4 Q. Did you communicate by email with Sergeant
 5 Stender with that device?
 6 A. No.
 7 Q. What about Officer Muro?
 8 A. No.
 9 Q. What about Officer Durand?
 10 A. No.
 11 Q. Was Durand, sir, in the field at times your
 12 partner during your regular patrol work?
 13 A. Yes and no.
 14 Q. Have you worked in the field with him?
 15 A. I have.
 16 Q. Other than SWAT?
 17 A. Yes.
 18 Q. What time frame would you consider him to be your
 19 partner?
 20 A. As of right now?
 21 Q. No. Back previously when you would work in the
 22 field with him.
 23 MR. CARTER: Objection, vague as to
 24 time.
 25 BY MR. PADDEN:

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1 Q. Let me ask it this way.
 2 Were there times, sir, that you were in
 3 a squad car with someone performing your patrol
 4 work?
 5 A. Yes.
 6 Q. And at times would that have been Durand?
 7 A. Yes.
 8 Q. Can you give me any kind of time frame, sir, when
 9 that was?
 10 A. We were partners last year.
 11 Q. Were you ever partners before May of 2013?
 12 A. No.
 13 Q. During the time you were partners did you ever
 14 talk about the Franklin incident?
 15 A. I'm sure it came up in conversation.
 16 Q. Did you talk about specific facts or was it more
 17 just in general like your injuries and stuff?
 18 A. Just general.
 19 Q. Sir, when you were in the field in May of 2013
 20 were you wearing any kind GPS equipment?
 21 A. No.
 22 Q. You mentioned earlier about GPS. Were your guys'
 23 movements tracked by GPS on that date?
 24 A. The vehicle would have been.
 25 Q. Just the vehicle?

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1 A. (Witness nods head.)
 2 Q. When you left the vehicle you wouldn't have been
 3 tracked by GPS?
 4 A. Correct.
 5 Q. When you guys were on your way to 2717 what was
 6 the demeanor like in the car with your team?
 7 A. Cordial.
 8 Q. But were you kind of amped up with the situation
 9 or was it just another event?
 10 A. Just another event.
 11 Q. It ended up being a pretty big deal though,
 12 right?
 13 A. It did.
 14 Q. And do you know why it was your team was deployed
 15 for the Franklin matter?
 16 A. No.
 17 Q. Who would know the answer to that question?
 18 Sergeant Stender?
 19 A. He may.
 20 Q. Did you have a personal email account in May of
 21 2013?
 22 A. I did.
 23 Q. Do you remember what the email address was?
 24 A. I do.
 25 MR. PADDEN: Can I ask him for that,

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1 Counsel?
 2 MR. CARTER: Can I just make a
 3 suggestion? Can we just do this through formal
 4 discovery requests and then we can put forward
 5 our objections?
 6 MR. PADDEN: I'm fine with that.
 7 BY MR. PADDEN:
 8 Q. Let me ask this question, sir.
 9 Do you recall any email communications
 10 with any of the officers that were involved in
 11 the Franklin incident through that email account?
 12 A. No.
 13 Q. So if you would have communicated with them via
 14 email about the Franklin incident it would have
 15 been the email address at work, correct?
 16 A. Correct.
 17 Q. Sir, what type of firearm did you have with you
 18 on the -- at the time you entered the home at
 19 2717 Bryant?
 20 A. I had a Sig Sauer.
 21 Q. Did you have a holster?
 22 A. I did.
 23 Q. On the right side of your body?
 24 A. Correct.
 25 Q. Tell me what type of holster it was.

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1 A. It was a Safari Land leg holster.
 2 Q. How many rounds did you have in the firearm, sir?
 3 A. Nine.
 4 Q. Did you have a weapon mounted light on that
 5 device, sir?
 6 A. I did.
 7 Q. Tell me how that worked.
 8 A. I guess -- I mean, I don't have the schematics of
 9 it, how it internally works.
 10 Q. Just explain to me like I'm a five year old. It
 11 is a flashlight, right?
 12 A. I would have to have it in front of me if you are
 13 a five year old to explain how to use it I guess.
 14 Q. How does it work in general?
 15 A. There is a little toggle switch. And you put it
 16 one way and it stays on, you put it the other way
 17 and it only stays on as long as you hold it.
 18 Q. You didn't carry a rifle down in that basement,
 19 did you?
 20 A. No.
 21 Q. Did you have a magazine for the rifle?
 22 A. I did.
 23 Q. Why?
 24 A. I always carry an extra magazine for the rifle on
 25 my belt.

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1 Q. Sir, at some point you found out that there was
 2 evidence of forced entry into 2717 Bryant,
 3 correct?
 4 A. Correct.
 5 Q. And did you physically run to that address, sir?
 6 A. I don't believe so, no.
 7 Q. Do you recall where you were when you found out,
 8 sir?
 9 A. I believe we were somewhere on the entire block
 10 of that address.
 11 Q. Do you recall who you were with at the time?
 12 A. I do not.
 13 Q. Sir, I'm just going to take you through the
 14 incident and ask you to describe for me
 15 chronologically what happened. And I might
 16 interject with questions as we go, but I want to
 17 just start with the time that the team decided to
 18 enter the home. Okay?
 19 Did all five of you enter at the same
 20 time?
 21 A. That I wouldn't be able to recall. I only know
 22 what I did.
 23 Q. Do you recall who you were with at the time, sir,
 24 when you did enter, who the team was?
 25 A. It was Sergeant Stender, Officer Durand, Officer

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1 Peterson, myself and Officer Muro.
 2 Q. And when you entered -- so you are not sure if
 3 you all entered at the same time?
 4 A. Correct.
 5 Q. But at some point you all were in the home
 6 together, correct?
 7 A. Correct.
 8 Q. Can you describe for me, sir, what happened
 9 chronologically up to the time that the -- that a
 10 member of the team or members entered the
 11 basement?
 12 A. I guess I would have to -- where do you want me
 13 to start and stop?
 14 Q. I was going to start with the time that you
 15 entered the home and just try to get an idea of
 16 how things developed kind of chronologically
 17 before you or any of the other team members
 18 entered the basement.
 19 A. We announced our presence with a K9 officer
 20 multiple times before we even stepped foot into
 21 the house through the open doorway. Did the
 22 first floor, second floor, went to the basement.
 23 Q. Do you recall how you guys went down in the
 24 basement, how that worked logistically?
 25 A. I wasn't there.

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1 Q. Do you know who it was that entered the basement
 2 first?
 3 A. Not at that time, no.
 4 Q. Do you know where you were when a member of the
 5 team entered the basement?
 6 MR. CARTER: Objection, vague. Go
 7 ahead.
 8 THE WITNESS: I wouldn't be able to
 9 tell you. I didn't see it.
 10 BY MR. PADDEN:
 11 Q. Were you with someone when you entered the
 12 basement?
 13 A. No.
 14 Q. Is it your belief that other members of your team
 15 entered the basement before you?
 16 A. Yes.
 17 Q. But you don't know who and how many, correct?
 18 A. Correct.
 19 Q. Do you know if you were the last member of the
 20 team to enter the basement?
 21 A. I don't know.
 22 Q. So when you entered the basement you didn't know
 23 who was down there?
 24 A. I had an idea who was down there.
 25 Q. Who was it?

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1 A. It was Officer Peterson, Office Durand and
2 Sergeant Stender.
3 Q. Do you know where Muro was?
4 A. I don't remember. I knew he was down there at
5 some point. I don't know if he came in before me
6 or after me.
7 Q. But when you went down you would have gone down
8 alone.
9 A. I believe so, yes.
10 Q. When you went down -- so you would have gone
11 down -- you would have entered the basement on
12 the steps, correct?
13 A. Correct.
14 Q. Do you know where you were, sir, before you got
15 to the steps, what your route was?
16 A. I believe I was standing in the kitchen.
17 Q. And do you remember where you had to go to get to
18 the basement steps?
19 A. To the basement steps.
20 Q. But how did you do that physically, sir?
21 A. Walked.
22 Q. What was the configuration of the house to get
23 there, if you remember?
24 A. I would have to look at pictures of the house to
25 give you an exact.

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1 Q. Do you recall at some point being at the top of
2 the steps?
3 A. I don't recall it.
4 Q. Do you recall before you began to go down the
5 steps that there was a door in that area?
6 A. Not at that time, no.
7 Q. Do you know if there was a door in the area at
8 the top of the steps?
9 A. I do now.
10 Q. Are you able to tell me, sir, if that door was
11 closed or open at the time you went down the
12 steps?
13 MR. CARTER: Objection, vague.
14 BY MR. PADDEN:
15 Q. Go ahead and answer.
16 A. Since I didn't notice the door I would say it was
17 closed because it would have been in my way.
18 Q. How would it have been in your way?
19 A. If the door was open it would swing from across
20 the top of the stairs hindering me from getting
21 into the basement. And I would have noticed a
22 door, which I don't notice a door now.
23 Q. When you went down to the basement do you recall
24 how things developed chronologically?
25 A. I guess I don't understand the question.

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1 Q. What I'm asking, sir -- I guess let me do it this
2 way.
3 I know you were injured in this
4 situation. Okay? Do you know if the injuries
5 you sustained, sir, affect your ability to recall
6 the details of what happened in the basement?
7 A. I would say they do greatly.
8 Q. And is that something you made clear when you
9 gave your statement?
10 A. I don't believe they ever asked me. That's not a
11 statement. That's a Q and A.
12 Q. I will call it a Q and A then.
13 You don't recall them ever asking that
14 question?
15 A. I would have to read through it all, but, no, I
16 don't recall it.
17 Q. When did you last read it?
18 A. Last night.
19 Q. Did that refresh your memory?
20 A. Somewhat, but I would have to read it all over
21 again now.
22 Q. Would you agree, sir, that your memory about the
23 details of this incident would have been better
24 when you gave the Q and A than they are today?
25 A. No.

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1 Q. You think they are as good today as they were
2 when you gave your Q and A responses 14 days
3 after the incident?
4 A. They are about the same.
5 Q. I'm going to ask you about the statement in a
6 little while specifically, but I'm just going to
7 ask right now for your memory, sir.
8 When you went down to the basement was
9 the light on your gun activated?
10 A. No.
11 Q. You got down to the bottom of the steps, correct?
12 A. Correct.
13 Q. Alighted off the last step into the basement,
14 right?
15 A. What off a step?
16 Q. Alighted.
17 A. Alighted?
18 Q. You don't know what that word means?
19 A. No.
20 Q. Didn't you step from the last step on to the
21 floor of the basement?
22 A. I would assume, so, yes.
23 Q. Can you tell me, sir, what the lighting was like
24 when you first got down there?
25 A. There was sunlight at the bottom of the stairs

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1 coming from the top.
 2 Q. Were you able to see okay?
 3 A. Just at the bottom of the stairs.
 4 Q. When you got to the bottom of the steps, sir, and
 5 stepped on to the floor of the basement -- that
 6 happened, right?
 7 A. Yes.
 8 Q. What happened next?
 9 A. I turned left.
 10 Q. Then what happened next?
 11 A. Turned left and saw Sergeant Stender.
 12 Q. What was he doing, sir?
 13 A. Giving commands for someone to come out.
 14 Q. Do you remember what way he was facing when he
 15 was giving those commands?
 16 A. Towards the water heater.
 17 Q. What side of the basement was the water heater,
 18 sir, in terms of direction, north, south, east,
 19 west?
 20 MR. CARTER: Objection, vague.
 21 THE WITNESS: Depends which way you are
 22 facing.
 23 BY MR. PADDEEN:
 24 Q. Was Stender facing towards the north?
 25 A. Again, I would have no idea.

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1 Q. So if I asked you questions about north, south,
 2 east and west in terms of the configuration of
 3 this basement with north, south, east and west,
 4 is that something you wouldn't be able to answer?
 5 A. Correct.
 6 Q. So you saw Stender giving voice commands to
 7 someone, right?
 8 A. Correct.
 9 Q. Then what did you see next?
 10 A. I saw a subject with long dreadlocks and red
 11 pants.
 12 Q. What was he doing, sir?
 13 A. He was partially behind a water heater with a dog
 14 biting him.
 15 Q. Was he standing?
 16 A. He appeared to be.
 17 Q. And where was the dog biting him?
 18 A. His lower extremities.
 19 Q. Do you know where specifically?
 20 A. Lower extremities.
 21 Q. I know what the lower extremities are, sir. The
 22 left leg and the right leg are lower extremities.
 23 Can you be more specific about where?
 24 A. Lower extremities.
 25 Q. So he was -- the dog was attached on to the

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1 subject, correct, with his mouth?
 2 A. Again, I wouldn't be -- he was in the process of
 3 actively --
 4 Q. Was he biting him?
 5 A. I mean, dogs bite, they let go. They bite, they
 6 let go. They hold on.
 7 I wouldn't be able to give you a
 8 definite of what the dog was -- what position the
 9 dog was in at that exact time.
 10 Q. Fair enough.
 11 During that time frame did you ever see
 12 the dog bite the subject?
 13 A. Yes.
 14 Q. And that was in the lower extremities.
 15 A. Yes.
 16 Q. When you came down to the basement, was that at a
 17 specific request from someone?
 18 A. No.
 19 Q. So you just did that unilaterally on your own?
 20 A. I heard someone yelling.
 21 Q. Yelling what?
 22 A. Show me your hands.
 23 Q. So is that what caused you come into the
 24 basement?
 25 A. Yes.

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1 Q. Do you know whose voice that was?
 2 A. No.
 3 Q. So you saw the dog biting this man in his lower
 4 extremities. Did you say he was standing up,
 5 sir?
 6 A. He appeared to be.
 7 Q. And then what happened next?
 8 A. I pulled some debris and the door out of my way
 9 and made my way back there.
 10 Q. Where was the debris?
 11 A. Throughout the entire length to get back behind
 12 the water heater.
 13 Q. So was the -- if I use the term cluttered would
 14 that be a reasonable way to describe it?
 15 A. Yeah.
 16 Q. Was it hard to walk?
 17 A. Made it difficult, yes.
 18 Q. Was there clutter all over that part of the
 19 basement, sir?
 20 A. Yes.
 21 Q. And what happened next?
 22 A. I went back to assist Sergeant Stender.
 23 Q. Where was Officer Peterson at the time?
 24 A. He was in that general area.
 25 Q. Did anyone have their flashlight activated, sir,

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1 on their firearm?
 2 A. Not that I recall.
 3 Q. Were you able to see in the water heater area,
 4 sir?
 5 A. Somewhat.
 6 Q. Was it dark?
 7 A. It was dark.
 8 Q. Was it very dark?
 9 A. Made it difficult to see.
 10 Q. Were you able to see the subject's face at that
 11 point in time?
 12 A. I was.
 13 Q. And you saw that he had dreadlocks?
 14 A. Yes.
 15 Q. Did you see the color of his clothing?
 16 A. I did.
 17 Q. Was it your assumption, sir, that that was the
 18 suspect you were trying to find?
 19 A. Yes.
 20 Q. Was Peterson giving any voice commands at that
 21 point?
 22 A. I do not recall.
 23 Q. From that point forward up until the time that
 24 Franklin was killed do you ever recall Peterson
 25 giving any voice commands?

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1 A. I'm not sure.
 2 Q. Do you know if anyone struck Franklin, sir, at
 3 that point in time?
 4 A. At the time, no.
 5 Q. Did you ever see Franklin struck by anyone in
 6 that area before Franklin ended up in the laundry
 7 room area of the basement?
 8 A. Not that I recall.
 9 Q. So you never saw Sergeant Stender strike him,
 10 correct?
 11 A. Correct.
 12 Q. Did Franklin react at all to being bit by the dog
 13 from what you could observe, sir?
 14 A. Not really.
 15 Q. I mean, did he seem to be in pain?
 16 A. No.
 17 Q. He didn't show any signs of pain, in any event.
 18 A. None.
 19 Q. So what happened next?
 20 A. I attempted to pull him backwards through --
 21 Q. He was standing, right?
 22 A. Correct.
 23 Q. And then what happened next?
 24 A. Continued to keep pulling him backwards.
 25 Q. Was he moving towards you?

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1 A. Not specifically.
 2 Q. During this process, sir, did any member of your
 3 team yell come out little nigger?
 4 A. No.
 5 Q. At any time during that process did Franklin say
 6 man let me go?
 7 A. No.
 8 Q. And it is your testimony Franklin never said
 9 anything, right?
 10 A. Correct.
 11 Q. From the time you saw him up until the time he
 12 was killed he never said anything, right?
 13 A. Correct.
 14 Q. What happened next?
 15 A. I went back to assist Sergeant Stender.
 16 Q. And then what happened next?
 17 A. I grabbed a hold of the suspect.
 18 Q. Where?
 19 A. Upper body shoulder area.
 20 Q. Then what happened?
 21 A. I attempted to pull him backwards, get him out
 22 from the cluttered area.
 23 Q. Was Stender holding on to him too?
 24 A. I do not recall.
 25 Q. What about Peterson?

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1 A. No.
 2 Q. When you say pulling backwards, what do you mean
 3 by that?
 4 A. I had him by his shoulders pulling him backwards.
 5 Q. You mean towards you?
 6 A. Towards me.
 7 Q. So you were trying to get him out from the water
 8 heater area, correct?
 9 A. Correct.
 10 Q. Do you recall where Durand was at that point in
 11 time?
 12 A. I just remember he was somewhere behind us.
 13 Q. Sir, when you were pulling Franklin out from the
 14 water heater area towards you, correct?
 15 A. Correct.
 16 Q. Did anyone have their guns out?
 17 A. Not that I saw.
 18 Q. Your gun was holstered?
 19 A. Correct.
 20 Q. What happened next?
 21 A. Pulled him backwards and delivered two to three
 22 knee strikes.
 23 Q. What is that, sir? What does that mean?
 24 A. Driving my knee into his upper body area.
 25 Q. But he was standing, right?

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1 A. I was pulling him down each time with the strike.
 2 Q. I see. And which knee did you do that with, sir?
 3 A. My right knee.
 4 Q. And when you did that did you physically hit his
 5 body with your knee?
 6 A. I did.
 7 Q. How many times?
 8 A. Two to three.
 9 Q. Did he react to that, sir?
 10 A. Yes.
 11 Q. In what way?
 12 A. By forcing me backwards into a wall closet door.
 13 Q. And then what happened next?
 14 A. I lost my grip.
 15 Q. Sir, was the wall closet door, was that in the
 16 hallway that lead from the base of the steps to
 17 the laundry room area?
 18 A. It was in the basement.
 19 Q. Your back ended up against something?
 20 A. Correct.
 21 Q. Was that area, sir -- if we are overhead looking
 22 at the basement, would that be from the base of
 23 the -- in between the area from the base of the
 24 steps to the door to the laundry room?
 25 A. I believe so. I would have to look at a picture.

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1 Q. The laundry room did have a door, right?
 2 A. I believe so.
 3 Q. What happened next?
 4 A. I lost my grip of him and the suspect got away
 5 from me.
 6 Q. What did the suspect do at that point?
 7 A. He then moved away and got into an altercation
 8 with Officer Durand and Officer Peterson.
 9 Q. Did you observe that?
 10 A. I did.
 11 Q. Tell me what you saw, sir.
 12 A. I saw him driving Officer Durand into the laundry
 13 room or what at the time I had no idea.
 14 Q. Did Officer Durand go down to the ground?
 15 A. That I do not know.
 16 Q. You didn't see that?
 17 A. Didn't see that.
 18 Q. Did you have trouble seeing when this was going
 19 on, sir?
 20 A. Once they got into the room I couldn't see
 21 anymore.
 22 Q. At some point were you ever physically in the
 23 laundry room, sir?
 24 A. I was.
 25 Q. Was there any artificial light that came into the

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1 laundry room, sir?
 2 A. Not that I recall. Could have been a small
 3 amount.
 4 Q. By artificial light, sir, I mean light that would
 5 be coming in through a window for example.
 6 A. Not that I recall.
 7 Q. I probably asked that wrong. Artificial light --
 8 strike that.
 9 Was there any electricity that was
 10 being used at the time? Were any lights on in
 11 the basement?
 12 MR. CARTER: Objection, compound
 13 question, form.
 14 BY MR. PADDEN:
 15 Q. Go ahead.
 16 A. Not that I recall.
 17 Q. So you guys didn't turn any lights on?
 18 A. No.
 19 Q. Why?
 20 A. It is not something that we do.
 21 Q. Why is that?
 22 A. Light switches are located differently in every
 23 house.
 24 Q. Was there anything that prevented you from asking
 25 the homeowner where the light switches were?

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1 A. Me personally I never met him.
 2 Q. You know the homeowner was there, around there
 3 though, right?
 4 A. Somewhere.
 5 Q. What I'm asking, sir, there was nothing that
 6 prevented a member of your team from asking the
 7 homeowner where the lights were, correct?
 8 A. I wouldn't know.
 9 Q. Was there any natural light, sir, coming through
 10 any part of the laundry room area that you
 11 recall?
 12 A. There was a small amount, but not very much.
 13 Q. Was there much difference, sir, in terms of what
 14 you could see from the area of the water heater
 15 into the laundry room or was it essentially the
 16 same?
 17 MR. CARTER: Objection to the form of
 18 the question, vague.
 19 BY MR. PADDEN:
 20 Q. Go ahead and answer.
 21 A. I guess you would have to be there back in that
 22 time to give you a direct answer on how it was.
 23 Q. I know. But I wasn't there and I'm just trying
 24 to find out what your perception was at the time.
 25 A. It was darker in the laundry room.

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1 Q. Fair enough.
2 So the laundry room was darker than the
3 water heater area, is that fair?
4 A. Correct.
5 MR. CARTER: Objection. Let me get an
6 objection in to that last question.
7 Objection to the form of the question
8 and it is vague.
9 BY MR. PADDEN:
10 Q. So you said that Franklin drove Durand into the
11 laundry room? Is that your testimony?
12 A. Correct.
13 Q. And I may have asked you this. I apologize. I'm
14 just trying to get reoriented to where we were in
15 the chronology.
16 Did Durand go down on the ground?
17 A. Not that I saw.
18 Q. Do you know if Franklin went down on the ground?
19 A. At that time I don't know.
20 Q. Was there a period of time where you lost sight
21 of Franklin and Durand?
22 A. There is.
23 Q. What was Peterson doing at the time that Durand
24 was pushed back if anything?
25 A. He was with them.

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1 Q. Where though physically?
2 A. He was -- he drove him back with both of them
3 there.
4 Q. So Franklin drove both Peterson and Durand into
5 the laundry room?
6 A. They were all right there together.
7 Q. So then what happened next?
8 A. I followed into the laundry room.
9 Q. Did you go into the laundry room?
10 A. I did.
11 Q. But you said there was a period of time where you
12 lost sight of them?
13 A. Yes.
14 Q. What do you remember seeing next, sir?
15 A. Trying to find him in the laundry room.
16 Q. Were you successful in that regard?
17 A. Eventually.
18 Q. How much time elapsed from the time you lost
19 sight of him up until the time that you regained
20 sight of him?
21 A. Again, I wouldn't be able to give you a definite.
22 It was extremely fast. It was a dynamic
23 situation.
24 Q. By dynamic, sir, do you mean that things happened
25 quickly? Is that fair?

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1 A. Yes.
2 Q. And at some point did you hear the gun discharge?
3 A. I did.
4 Q. You don't know the specific circumstances as to
5 how the gun discharged, correct?
6 A. Correct.
7 Q. That would be about -- when I say gun, I mean the
8 MP-5, right?
9 MR. CARTER: Object to the form of the
10 question. I mean, you know what you mean by the
11 question.
12 MR. PADDEN: When I said the gun -- the
13 reason I want to clarify, Counsel, is because
14 three guns discharged in this incident. I'm just
15 trying to make sure the witness understood my
16 question.
17 THE WITNESS: A gun went off.
18 BY MR. PADDEN:
19 Q. But you don't know the circumstances of why that
20 gun went off, correct, sir?
21 A. Correct.
22 Q. You recall hearing one round?
23 A. One boom.
24 Q. And when the boom happened I think you said it
25 was immediately at that time that you felt pain?

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1 A. Correct.
2 Q. But just to be fair and clear, you don't know the
3 circumstances as to what was going on, right?
4 A. No.
5 Q. Did anyone say anything about the gun discharging
6 before it discharged?
7 A. I believe there was a statement made that he has
8 a gun.
9 Q. Who made that statement?
10 A. I don't know.
11 Q. When you heard he has a gun -- I realize this was
12 a fluid situation -- what did you interpret that
13 to mean?
14 A. That he had a gun.
15 Q. That he had his own gun?
16 A. Correct.
17 Q. You found out at a later time that apparently
18 that may have been a reference to him holding the
19 MP-5?
20 A. Correct.
21 Q. But you didn't see that, right?
22 A. At what time?
23 Q. What's that?
24 A. What time are you asking me?
25 Q. I thought you told me that when you heard the

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1 boom you didn't know the circumstances of how the
 2 boom happened, right? You don't know what was
 3 going on in that sense. You just heard a boom,
 4 right?
 5 A. At that time.
 6 Q. Now, at some point did you hear Peterson fire his
 7 gun?
 8 A. No.
 9 Q. Are you aware of the fact that Peterson fired his
 10 gun?
 11 A. I am now.
 12 Q. When did you find out that Peterson had fired his
 13 gun?
 14 A. Later that evening.
 15 Q. Sir, is it a true statement that in a history you
 16 gave at the hospital, information you provided to
 17 either a nurse or a doctor or some personnel at
 18 the hospital, did you say that I felt blood
 19 running down my leg and my pants and then I
 20 started shooting? Did you say that?
 21 A. I would have no idea.
 22 Q. You would have to see the document?
 23 A. And have the -- hear the audio of it if it was at
 24 hospital.
 25 Q. What if it wasn't recorded?

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1 A. Then I would have to say I don't remember.
 2 Q. Do you have -- regardless of what that record
 3 says or may say, do you have a sensation of
 4 shooting when you felt blood on your pants?
 5 A. I guess I don't understand the whole question.
 6 Q. Okay. What prompted you to shoot, sir?
 7 A. I knew I was shot.
 8 Q. And when you shot did you draw focus on the
 9 suspect?
 10 A. I did.
 11 Q. Did you have trouble seeing him with the
 12 darkness?
 13 A. Again, I guess it would be I knew it was the
 14 suspect.
 15 Q. So when you shot you felt you were in a position
 16 to be able to accurately fire the bullets into
 17 the suspect?
 18 A. Correct.
 19 Q. You weren't just going to be wildly firing,
 20 correct?
 21 A. Correct.
 22 Q. Can you give us, sir, an estimate as to how far
 23 you were away from Franklin when you decided to
 24 shoot him?
 25 A. I didn't have a tape measure with me at the time

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1 so I wouldn't be able to give you one.
 2 Q. Can you give me an estimate?
 3 A. No. Again, I'm not good with numbers.
 4 Q. Where was Franklin located when you began
 5 shooting him?
 6 A. He was off to my left side somewhere.
 7 Q. In the laundry room?
 8 A. Correct.
 9 Q. You were in the laundry room?
 10 A. Correct.
 11 Q. Do you recall how he was physically configured
 12 when you started shooting him?
 13 A. Somewhat.
 14 Q. Tell me what please.
 15 A. What I remember we were pretty much in -- he was
 16 on his butt on the ground with his legs out
 17 seated upright with his arms extended.
 18 Q. Did you see if he was holding anything at the
 19 time?
 20 A. I could see a struggle between him and Luke.
 21 Q. Where was Luke positioned when you started
 22 shooting Franklin?
 23 A. Basically kind of on top of him.
 24 Q. Weren't you worried about hitting Luke?
 25 A. There was a gap between the two.

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1 Q. Where was the gap?
 2 A. Between the two.
 3 Q. Can you describe that for me?
 4 A. Between their chests.
 5 Q. Was Peterson essentially over Franklin when you
 6 started shooting Franklin?
 7 A. It depends on what your definition of over is.
 8 Q. Describe for me how Peterson was physically
 9 configured with Franklin when you started
 10 shooting Franklin.
 11 A. Franklin was on the ground seated up. Luke was
 12 on top of him.
 13 Q. Didn't you see at some point Peterson's right
 14 hand on his gun?
 15 A. No.
 16 Q. So is it your testimony that you don't recall at
 17 all Peterson shooting Franklin?
 18 A. Correct.
 19 Q. And is it your recollection that the only firearm
 20 that you heard going off was yours?
 21 A. At that time.
 22 Q. And I take it when you shot your gun it was loud.
 23 A. Correct.
 24 Q. Do you recall how many rounds you got off, sir?
 25 A. At that time, no.

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1 Q. Do you know where you were shooting him when you
2 began shooting him?
3 A. I do.
4 Q. Where?
5 A. The upper shoulder and head area.
6 Q. You were accurate, right? You believe every
7 round hit?
8 A. I have no idea.
9 Q. But did you see the suspect react as a result of
10 you shooting him?
11 A. No.
12 Q. You don't remember that?
13 A. No.
14 Q. Did you have the perception that you were hitting
15 him with your rounds when you were shooting him?
16 A. No.
17 Q. What was your perception then?
18 A. I just remember firing the last round and him
19 going limp.
20 Q. How did he go limp?
21 A. He went limp.
22 Q. Did his body move during the time you were
23 shooting him?
24 A. I don't recall.
25 Q. So you are not able to tell me for example if he

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1 moved from the seated position to a different
2 position after you were done shooting him?
3 A. I just told you he went limp.
4 Q. What does that mean?
5 A. He obviously moved then, didn't he?
6 Q. I don't know. I'm asking you. I'm not the
7 witness. Just tell me.
8 MR. CARTER: Objection. Asked and
9 answered. He has answered the question.
10 BY MR. PADDEN:
11 Q. When you say he went limp, did his body fall back
12 down?
13 A. In a sense, yes.
14 Q. So it did move.
15 A. He went limp.
16 Q. What do you mean by limp?
17 A. I just told you. He went limp.
18 Q. What does that mean, sir? I don't know what that
19 means.
20 A. I don't know what to tell you. If you have a
21 dictionary we can look it up.
22 Q. Did his body move as a result of you shooting
23 him?
24 MR. CARTER: Objection, asked and
25 answered.

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1 That's just a yes or no question.
2 THE WITNESS: Ask it again.
3 BY MR. PADDEN:
4 Q. You said that when you shot him his body went
5 limp. Okay? That's what you told me, right?
6 A. Correct.
7 Q. What I was asking is did his body move as a
8 result of you shooting him?
9 A. Yes.
10 Q. Tell me how.
11 A. It went limp.
12 Q. What does that mean?
13 A. It moved. His body moved and went limp. He was
14 no longer moving.
15 Q. Was there a lot of blood?
16 A. I only remember my own blood.
17 Q. Do you recall seeing Franklin's blood go
18 anywhere?
19 A. No.
20 Q. Do you recall, sir -- I may have asked this. I
21 apologize. I just want to make sure I have this
22 right.
23 You said you heard a boom and you
24 immediately felt pain, correct?
25 A. Correct.

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1 Q. How much time elapsed from the time you felt pain
2 up until the time that you began shooting
3 Franklin?
4 A. Again, I'm not good with numbers.
5 Q. Do you recall, sir, anybody yanking any of the
6 dreadlocks out of his hair?
7 A. No.
8 Q. You never saw that, right?
9 A. Correct.
10 Q. Do you recall any conversations with DOC Dave in
11 the basement?
12 A. No.
13 Q. Do you know who DOC Dave is?
14 A. I do.
15 Q. So he is someone you knew before that date,
16 right?
17 A. Knew of.
18 Q. You don't recall seeing him in the basement after
19 the time Franklin was killed, sir?
20 A. No.
21 Q. Sir, before you killed Franklin did you have any
22 like anger against him?
23 A. No.
24 Q. Were you angry about his conduct in trying to
25 escape?

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1 A. No.

2 Q. Sir, you know what the term racist is, don't you?

3 You know what that means, don't you?

4 A. Yes.

5 Q. What are your attitudes about black people if

6 any?

7 MR. CARTER: Objection, vague.

8 BY MR. PADDEN:

9 Q. Go ahead.

10 A. No different than any other people.

11 Q. You have never used a racial slur in the field

12 with African Americans, correct?

13 A. Not out of a professional context, no.

14 Q. When you shot Franklin could you see Officer

15 Peterson?

16 A. I knew of where he was, yes.

17 Q. Because you had to make sure that you weren't

18 going to shoot one of your own guys, correct?

19 A. Correct.

20 Q. You felt it was safe to shoot Franklin and not

21 hit Peterson, right?

22 A. Correct.

23 Q. Did you ever see during this situation, sir,

24 Peterson with his gun out?

25 A. No.

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1 Q. Is Peterson a right-handed guy?

2 A. Wouldn't be able to tell you.

3 Q. You don't know?

4 A. Don't know.

5 Q. Sir, when you were in the hospital did they draw

6 blood from you for a blood test?

7 A. They did.

8 Q. Do you recall at some point Officer Delmonico

9 stopping blood draws? Do you know anything about

10 that?

11 A. No.

12 Q. I would like to ask you some questions, sir,

13 about your statement. Sir, I have had marked as

14 Exhibit 2 a document which I believe is your

15 statement.

16 Can you look at that, sir, and confirm

17 that for me, please?

18 A. This is a Q and A.

19 Q. I'm sorry. I apologize, sir. Q and A, right?

20 A. Correct.

21 Q. Sir, the document I handed you is five pages in

22 length, correct?

23 A. Correct.

24 Q. Sir, is your signature on the last page of that

25 exhibit?

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1 A. It is.

2 Q. Sir, when you did the Q and A was it generated

3 right there and then given to you so you had a

4 copy when you left?

5 A. That I do not recall.

6 Q. So you can't tell me if you signed the statement

7 that day?

8 A. That I did, yes.

9 Q. You did sign the statement that day.

10 A. That wasn't the question you asked. You asked if

11 I left with a copy.

12 Q. Did you leave a copy?

13 A. I said I don't recall.

14 Q. Did you sign the statement that day?

15 A. I did.

16 Q. Did they have to -- was there a period of time

17 where you had to wait to get it after it was

18 transcribed?

19 A. I would assume so.

20 Q. You don't remember that?

21 A. It had to come off a printer.

22 Q. Right.

23 A. It would be a guess that I had to wait some time

24 before it was produced in front of me.

25 Q. Do you know how much time that was, sir?

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1 A. Again, no.

2 Q. Do you know whose signature that is? There's two

3 signatures on the last page. Do you know whose

4 those are?

5 A. I would have no idea.

6 Q. Which one is yours?

7 A. The top one.

8 Q. What does 4686 mean?

9 A. My badge number.

10 Q. So that's your signature, correct?

11 A. Correct.

12 Q. Do you know if a copy of this statement was ever

13 provided to you?

14 A. At what time?

15 Q. That's what I'm trying to find out.

16 A. Yes.

17 Q. But you don't know if you were provided with it

18 that day.

19 A. Correct.

20 Q. Do you know when you were provided with a copy of

21 the statement?

22 A. The last one I remember was last week when I met

23 with my attorneys.

24 Q. Right. Were you provided with a copy of the

25 statement let's say within the first 30 days of

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1 the incident?

2 **A. I don't recall.**

3 **Q.** You may have been, you just don't recall?

4 **A. Correct.**

5 **Q.** Sir, do you ever recall a period of time during

6 this incident where the laundry room door was

7 closed?

8 **A. I do not.**

9 **Q.** Are you able to confirm for me if the laundry

10 room did in fact have a door?

11 **A. There wasn't a door when I went through it.**

12 **Q.** But you don't recall ever having trouble seeing

13 into that room and being obstructed by something

14 like a door, correct?

15 **A. Correct.**

16 **Q.** Sir, did you ever receive any information during

17 this process that the suspect you were trying to

18 find was armed?

19 **A. I don't believe so.**

20 MR. PADDEN: Off the record for a

21 moment.

22 (At this time a recess was had.)

23 MR. CARTER: I want to object to the

24 video regarding its foundation, chain of custody,

25 it has been enhanced and we don't know how.

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1 I also want to object, as we have been,

2 to the participation of Mr. Steve Rogers as

3 articulated in several letters and emails to

4 plaintiff's counsel.

5 BY MR. PADDEN:

6 **Q.** If you look, sir, at the video on the left can

7 you see the digits 00:00?

8 **A. I can.**

9 **Q.** I may ask you to look at that, sir, because I may

10 have some specific questions about specific time

11 frames on the video.

12 What I'm going to do now is I will have

13 the video played from beginning to end. This

14 clip, sir, I think is 62 seconds. So I'm going

15 to play it and the court reporter won't would be

16 taking down anything that she maybe hearing on

17 the video as we have done in the previous

18 depositions.

19 But I will play it all the way through,

20 sir, and then I will start again and ask you

21 about specific sections of it if that's okay.

22 All right?

23 **A. Correct.**

24 MR. CARTER: I apologize for

25 interrupting again. I just want to make the

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1 record clear that Mr. Rogers throughout these

2 depositions has been not only playing the video

3 but also appears to have been in custody of it at

4 various times.

5 MR. PADDEN: Go ahead, Mr. Rogers.

6 (At this time the video was played.)

7 BY MR. PADDEN:

8 **Q.** We just completed the playing of it, sir. You

9 had a chance to see the video. Did you hear

10 anything? On the video, sir, you heard sounds,

11 correct?

12 **A. Correct.**

13 **Q.** Let's go ahead and start from the beginning. And

14 what I'm going to do at this point is start from

15 the beginning and I'm going to go up to second

16 15. I'm going to ask you some questions about

17 second nine, second 11 and seconds 13 through 15.

18 Okay?

19 **A. Okay.**

20 **Q.** Thank you.

21 (At this time the video was played.)

22 BY MR. PADDEN:

23 **Q.** Sir, I will stop at second ten.

24 (At this time the video was played.)

25 BY MR. PADDEN:

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1 **Q.** Sir, at second nine did you hear the word Mookie

2 spoken?

3 **A. No.**

4 MR. PADDEN: Keep going.

5 (At this time the video was played.)

6 MR. PADDEN: Stop.

7 BY MR. PADDEN:

8 **Q.** Sir, did you hear the words officer shot at

9 roughly second 11?

10 **A. Yes.**

11 **Q.** You don't know who spoke those words but did you

12 hear officer shot?

13 **A. Yes.**

14 MR. PADDEN: Go ahead.

15 (At this time the video was played.)

16 MR. PADDEN: Stop.

17 BY MR. PADDEN:

18 **Q.** Sir, did you hear the words bad, where was he

19 shot, or words to that effect in the last couple

20 seconds we played between I believe 12 to 15?

21 **A. Something along those lines.**

22 **Q.** So you heard a voice. And when I say did it

23 sound like bad, where was he shot, you would be

24 comfortable with hearing that, correct, or words

25 to that effect?

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1 MR. CARTER: Objection, form.
2 THE WITNESS: That's not what I heard.
3 BY MR. PADDEN:
4 Q. What did you hear, sir?
5 A. Play it back one more time.
6 MR. PADDEN: Let's recue it from ten
7 and play to 15.
8 (At this time the video was played.)
9 MR. PADDEN: Stop.
10 BY MR. PADDEN:
11 Q. Did you have a chance to hear it there, sir?
12 A. I did.
13 Q. What did you hear?
14 A. Ask him where is he shot.
15 Q. Did you hear the word bad?
16 A. No.
17 Q. Now we are going to play from second 16 to second
18 39 -- strike that.
19 We are going to play it from 16 to 28
20 and I'm going to ask you some questions about 24
21 to 27. Okay, sir?
22 A. Okay.
23 (At this time the video was played.)
24 MR. PADDEN: Stop.
25 BY MR. PADDEN:

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1 Q. Sir, did you hear the words watch out for the
2 nigger anywhere in the last couple sound bites?
3 We are at 27 now. From 24 to 27 did you hear
4 watch out for the nigger?
5 A. No.
6 Q. Did you hear damn freaking nigger?
7 A. No.
8 Q. So you didn't hear the word nigger at all in that
9 area, did you?
10 A. Absolutely not.
11 MR. PADDEN: Go ahead and play it. I
12 want you to stop -- let's cue it from second 25
13 to second 30.
14 BY MR. PADDEN:
15 Q. I'm going to ask you about second 27 and 28.
16 Okay, sir?
17 A. Okay.
18 Q. In that general area.
19 To note for the record, sir, the time
20 that is noted here does not have it broken down
21 in tenths of a second. It appears to be just
22 seconds, correct?
23 A. I guess I don't understand what you mean.
24 Q. You don't know if that is accurate in terms of
25 from the beginning if we get to 25 and it is

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1 25 seconds, but what you are looking at in terms
2 of time doesn't appear to show tenths of a
3 second, correct, sir?
4 A. It completely shows different times. It shows 25
5 on the left and then as he is holding over it it
6 shows 24. I would have to say this whole video
7 is completely inaccurate.
8 Q. I appreciate that. I'm going to have you look at
9 the number on the left. Right there it says 25,
10 right?
11 A. Correct.
12 MR. PADDEN: I want you to cue that
13 number, sir, from 20 to 28 and then I will ask
14 him some questions.
15 (At this time the video was played.)
16 MR. PADDEN: Stop.
17 BY MR. PADDEN:
18 Q. Starting at 27 did you hear a voice say man let
19 me go?
20 A. No.
21 Q. Did you hear a voice at that -- after -- did you
22 hear a voice in that position from 27 to 29?
23 A. I would have to be currently listening to it at
24 those exact numbers.
25 MR. PADDEN: Let's start from 25 and go

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1 25 to 30.
2 (At this time the video was played.)
3 MR. PADDEN: Stop.
4 BY MR. PADDEN:
5 Q. Did you hear man let me go there, sir?
6 A. No.
7 Q. Let's now go from second 29 to second 38.
8 Actually 29 to 39, then I will ask you about 38,
9 sir.
10 MR. PADDEN: Go ahead.
11 (At this time the video was played.)
12 MR. PADDEN: Stop.
13 BY MR. PADDEN:
14 Q. Sir, did you hear hands up at second 38?
15 A. No.
16 Q. Did you hear a voice at second 38?
17 A. I heard a sound.
18 Q. But the sound that you heard is not something you
19 could make out in terms of words in the english
20 language, correct?
21 A. Correct.
22 Q. Let's now play from second 40 to second 50. And
23 I'm going to have you listen, sir, and if you
24 could concentrate on 43 and then 45 to 46.
25 (At this time the video was played.)

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1 MR. PADDEN: Stop.

2 BY MR. PADDEN:

3 Q. Sir, did you hear at any time in that gap from 40

4 to what is now 48 the words come out little

5 nigger?

6 A. No.

7 Q. Did you hear the words don't go putting those

8 hands up now?

9 A. No.

10 Q. Did you hear a sound in that time frame?

11 A. I can hear sound throughout the entire thing.

12 Q. But did you hear a voice in that gap of time?

13 A. I wouldn't be comfortable identifying what the

14 sound is.

15 Q. Were you able to ascertain if it was a voice?

16 A. No.

17 Q. That's all the questions I have about the video.

18 I'm just about done, sir. Let me look

19 at my notes here.

20 MR. PADDEN: Let's take a five minute

21 break please.

22 (At this time a recess was had.)

23 BY MR. PADDEN:

24 Q. I just have a few more questions, Officer. Thank

25 you for telling me about the position of Franklin

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1 when you shot him.

2 You told me that he was seated and he

3 would have -- he was away from you but you are

4 not sure what the distance was, correct?

5 A. Correct.

6 Q. Sir, as you were looking at Franklin before you

7 shot, was he -- I'm just trying to get a word

8 picture from you as to how he was configured when

9 you shot him.

10 Was he sideways when you shot at him?

11 A. I guess you would have to tell me or show me what

12 you mean by sideways.

13 Q. As you were pointing your gun at him right before

14 you shot, was he facing towards you or was he

15 facing to your left?

16 A. I wasn't looking directly at him.

17 Q. Can you give me any kind of help as to where he

18 was seated when you shot him?

19 A. He was seated.

20 Q. Was his back up against anything, sir?

21 A. I couldn't tell. He was upright, forward. I

22 couldn't tell you what angle it was but he wasn't

23 lying completely fat.

24 Q. Sir, we received information from the

25 investigation of the case that indicates there

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1 were a couple of appliances in the laundry room.

2 Which makes sense because it is called a laundry

3 room.

4 It appears that there was a washer and

5 a dryer in the laundry room. Do you remember

6 that?

7 A. No.

8 Q. Are you able to tell me if his back was up

9 against anything when you shot him?

10 MR. CARTER: Objection, asked and

11 answered.

12 BY MR. PADDEN:

13 Q. Go ahead.

14 A. I couldn't.

15 Q. Was his left side facing you when you shot?

16 A. Left side?

17 Q. Yes.

18 A. I don't believe so, no.

19 Q. Was a side of his body facing you?

20 A. His right side.

21 Q. So was he on the -- was he closer to the left

22 side of the laundry room as you were looking at

23 him or the right side of the laundry room?

24 MR. CARTER: Objection, vague.

25 THE WITNESS: I guess I couldn't give

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1 you a good answer because it wasn't really --

2 there wasn't complete right angles or straight

3 lines or anything else. He wasn't laying one

4 direction. It was moved over, hunched. It

5 wasn't a complete 90 degree angle. I couldn't

6 give you identically.

7 BY MR. PADDEN:

8 Q. You wouldn't know if the door at the top of the

9 steps was open at the time that you shot him.

10 You wouldn't know that, correct?

11 MR. CARTER: Objection, vague.

12 THE WITNESS: I would have no idea.

13 BY MR. PADDEN:

14 Q. I had asked you earlier about north, south, east

15 and west. The door that was at the top of the

16 steps, do you know what side of the house that

17 was from a north, south, east, west perspective?

18 MR. CARTER: Objection, vague, asked

19 and answered.

20 THE WITNESS: Absolutely not, no.

21 BY MR. PADDEN:

22 Q. What I am asking is the direction you were

23 looking at him before you shot your gun, would

24 you be able to say what direction you were

25 looking at from a north, south, east, west

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1 perspective?

2 A. No.

3 Q. Sir, did you have a problem with your right hip

4 before you were injured in this incident?

5 A. I did.

6 Q. What was the problem, sir?

7 A. I had a torn labrum.

8 Q. What was that from?

9 A. I have no idea. Life.

10 Q. So it was just the wear and tear of life?

11 A. I'm assuming.

12 Q. There was no traumatic incident?

13 A. No.

14 Q. Did you have surgery on your right hip before May

15 of 2013?

16 A. I did.

17 Q. What year was that?

18 A. I would have to look at my medical records.

19 Q. Did it affect your function at all, the hip

20 problem?

21 A. Obviously. I had surgery.

22 Q. Right. But after you had the surgery were you at

23 full function or did you have any kind of

24 residual from the surgery?

25 A. I was pretty good.

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1 Q. Sir, I forgot to ask you, the Sig Sauer, the gun

2 you had that day, what was the model number, sir?

3 A. P-220.

4 Q. What was the magazine capacity?

5 A. Eight.

6 Q. Did you have any spare magazines on you?

7 A. I did.

8 Q. How many?

9 A. Two.

10 Q. Did you have a round chambered in the gun, sir,

11 before you went down in the basement?

12 A. Yes.

13 Q. Was your weapon light on when you shot the rounds

14 that hit Franklin?

15 A. Not that I recall.

16 Q. Sir, at any time during this incident did

17 Terrance Franklin attempt to grab your weapon?

18 A. Not that I recall.

19 Q. Sir, you said earlier you learned later in the

20 evening that Officer Peterson had fired his gun.

21 Do you remember when you learned that

22 information, sir?

23 A. Later in the evening.

24 Q. Could you be more specific?

25 A. No.

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1 Q. Was it dark?

2 A. Don't know.

3 Q. How did you find out that he had shot his weapon?

4 A. I don't know.

5 Q. You don't remember?

6 A. No.

7 Q. Did you ever see any muzzle flash in the basement

8 when any of the guns were fired?

9 A. I may have. I'm not sure.

10 Q. Do you recall seeing muzzle flash from Peterson's

11 gun?

12 A. No.

13 Q. Earlier you said you may have seen muzzle flash

14 from the other gun. Do you mean that it may have

15 happened, you just don't remember?

16 A. Correct.

17 MR. PADDEN: That's all the questions I

18 have, Counsel. Thank you.

19 MR. CARTER: I just have a few quick

20 questions.

21 EXAMINATION

22 BY MR. CARTER:

23 Q. Officer Meath, you recall your testimony from

24 earlier today about the positions of Terrance

25 Franklin and Officer Peterson right before you

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1 shot Mr. Franklin. Do you recall that testimony?

2 A. I do.

3 Q. And more specifically do you recall your

4 testimony about there being a space in between

5 Terrance Franklin's chest and Officer Peterson's

6 chest?

7 A. I do.

8 Q. Could you explain what you meant by that

9 testimony?

10 A. I meant that there was obviously a space or a gap

11 that was between them. I couldn't tell, again,

12 with the right angles and everything else which

13 angle I was looking at, I just knew there was

14 enough space between them that I could safely

15 fire at the suspect.

16 Q. So you don't recall -- for example, you are not

17 able to constrain for example the specific angle

18 of Terrance Franklin's upper body relative to the

19 angle of Officer Peterson's upper body.

20 A. Correct.

21 MR. CARTER: I don't have any further

22 questions. We will read and sign.

23

24

25

STATE OF MINNESOTA)

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1) ss.
 2 COUNTY OF HENNEPIN)
 3 I, Kristin Hoium, a Notary Public in and for the
 4 County of Hennepin, in the State of Minnesota, do
 5 hereby certify:
 6 That the witness in the foregoing deposition named
 7 was present at the time and place therein specified;
 8 That the said proceeding was taken before me as a
 9 Notary Public at the said time and place and was
 10 taken down in shorthand writing by me;
 11 That said proceeding was thereafter under my
 12 direction transcribed into computer-assisted
 13 transcription, and that the foregoing transcript
 14 constitutes a full, true and correct report of the
 15 proceedings which then and there took place;
 16 That I am a disinterested third person to the said
 17 action.
 18 IN WITNESS THEREOF, I have hereto subscribed my hand
 19 and affixed my official seal this 10th day of
 20 September, 2015.

 Kristin Hoium
 Court Reporter

VERBATIM REPORTING (763)493-4535

1 Kristin Hoium
 2 VERBATIM REPORTING
 3 8906 ASHLEY TERRACE, SUITE 100
 4 Minneapolis, MN 55443
 5 Telephone 763-493-4535
 6 Fax 763-493-4532

September 10, 2015

7 Brian Carter
 8 350 South 5th Street, Suite 210
 9 Mpls., MN 55415

Re: Franklin vs. Peterson

Dear Mr. Carter:

11 With regard to the above-entitled matter,
 12 enclosed please find the Reading and Signing
 13 Certificate and transcript for the deposition of
 14 Michael Meath.

15 Please have him complete the Certificate, retain
 16 a copy for your transcript, and send the original to
 17 Mr. Padden.

18 Thank you for your cooperation. Feel free to
 19 call me if you have any questions.

Sincerely,

Kristin Hoium

cc: Mr. Padden

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1 DEPOSITION CORRECTION PAGE
 2 TITLE: Franklin vs. Peterson
 3 WITNESS: Michael Meath
 4 PAGE LINE DESIRED CHANGE/REASON FOR CHANGE

5 -----
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Signature of Witness

Subscribed and sworn to before:

20 Notary Public _____ County of
 21 Minnesota, _____ 20____

VERBATIM REPORTING (763) 493-4535

DEPOSITION CORRECTION PAGE

TITLE: Franklin vs. Peterson

WITNESS: Michael Meath

PAGE LINE DESIRED CHANGE/REASON FOR CHANGE

55 15 "BARS" to "BARZE"; Misspelling

120 16 "at him" to "at the front
of him"; Clarification

120 23 "fat" to "flat"; Misspelling

[Signature]
 Signature of Witness
 Subscribed and sworn to before:

Notary Public *Henn* County of
 Minnesota, *9-22* 20 *2015*

